

EXHIBIT FF

to

PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Civil Action No.: 1:10-cv-00986-JFA

Transcript from deposition of Oletha Minto

Oletha R. Minto, MD - 7/14/2011

Margo J. Hein-Muniz, MD, et al. v. Aiken Regional Medical Centers, et al.

In the United States District Court
District of South Carolina
Aiken Division
Case No: 1:10-CV-00986-MBS

Margo J. Hein-Muniz, MD)
and Parkside Medical)
Consultants, LLC d/b/a)
Magnolia Medical,) Deposition
Plaintiff(s),)
vs.) of
Aiken Regional Medical) OLETHA R. MINTO, MD
Centers, Universal Health)
Services, Inc., Aiken)
Obstetrics & Gynecology)
Associates, P.A., Carlos)
A. Milanes, K.D. Justyn,)
Oletha R. Minto, MD, James)
F. Boehner, MD, Robert D.)
Boone, MD, Jonathan H.)
Anderson, MD, Thomas P.)
Paxton, MD,)
Defendant(s),)

Deposition of OLETHA R. MINTO, MD, taken before
Thea K. Salmonson, Verbatim Court Reporter and Notary
Public in and for the State of South Carolina, scheduled
for 1:00 p.m. and commencing at the hour of 1:26 p.m.,
Thursday, July 14, 2011, at Aiken Regional Medical
Center, Aiken, South Carolina.

Reported by:
Thea K. Salmonson

Exhibit No. 10: MEC 3/3/10 (2 pgs.)

Exhibit No. 11: MEC 3/9/10 (1 pg.)

Exhibit No. 12: AllMed Review (5 pgs.)

Exhibit No. 13: Letter dated 3/16/10 (2 pgs.)

Exhibit No. 14: On-Call Calendar (1 pg.)

Exhibit No. 15: Letter dated 5/4/10 (3 pgs.)

Exhibit No. 16: Letter dated 6/7/10 (1 pg.)

Defendant's Exhibit No. 1: Letter (5 pgs.)

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EXHIBITS

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Exhibit No. 2: Medical Staff Bylaws (156 pgs.)
Exhibit No. 3: Letter dated 9/14/07 (7 pgs.)
Exhibit No. 4: Peer Review Minutes 1/15/08 (6 pgs.)
Exhibit No. 5: MEC 3/24/08 (5 pgs.)
Exhibit No. 6: Peer Review Form (2 pgs.)
Exhibit No. 7: Letter dated 10/30/08 (2 pgs.)
Exhibit No. 8: Letter dated 2/25/10 (2 pgs.)
Exhibit No. 9: Peer Review Scoring (2 pgs.)

STIPULATIONS

This deposition is being taken pursuant to the
Federal Rules of Civil Procedure.

The reading and signing of this deposition is
reserved by the deponent and counsel for the
respective parties.

Whereupon,

OLETHA R. MINTO, MD, being duly sworn and
cautioned to speak the truth, the whole truth,
and nothing but the truth, testified and
deposed as follows:

Court Reporter: State your full name for the
record, please.

Witness: Oletha Minto

DIRECT EXAMINATION

BY MR. DICK:

Q All right. Dr. Minto, again, my name is David
Dick, I represent the plaintiffs in this case.

Before we get started, are you under any medication
or other substance or suffer from any illness that
would prevent you from providing accurate testimony
today?

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<p style="text-align: right;">5</p> <p>1 A No.</p> <p>2 Q Okay. Have you been deposed before?</p> <p>3 A For the purposes of child support.</p> <p>4 Q Okay. Is that —</p> <p>5 A For my husband to pay child support at that the</p> <p>6 time, baby's daddy, I guess, yeah.</p> <p>7 Q So you've been deposed once then?</p> <p>8 A One time.</p> <p>9 Q Okay. Well, just to give you a few of the kind of</p> <p>10 procedural things that we'll try to follow today.</p> <p>11 Obviously she's going to be taking everything down</p> <p>12 that we say, so it's important that you and I not</p> <p>13 talk over one another. And I'll try to let you</p> <p>14 finish your answers and if you can try to let me</p> <p>15 finish my question, it will create a cleaner record</p> <p>16 for us. Along those same lines, make sure all your</p> <p>17 responses are verbal, yes and no, no head nodding</p> <p>18 or uh-huhs, huh-uhs, that sort of thing. I'll try</p> <p>19 to help with that if I notice that you're doing</p> <p>20 that. If you need a break just let me know. If</p> <p>21 you need to use the bathroom just say and we'll</p> <p>22 take a break, it's not a big deal. Now that the</p> <p>23 deposition has started, I know you talked with Mr.</p> <p>24 Dayhuff before we came in here, but now that the</p> <p>25 deposition has started, you can't talk to him until</p>	<p style="text-align: right;">7</p> <p>1 THE WITNESS: I don't know what that has to do with</p> <p>2 this case.</p> <p>3</p> <p>4 Q Again, you can't talk to —</p> <p>5 A What does that have to do with this case?</p> <p>6 Q You can't talk —</p> <p>7 A You keep going.</p> <p>8 Q You can't talk to him.</p> <p>9 A Okay.</p> <p>10 Q And I'll tell you why. And, again, you're not</p> <p>11 really supposed to be asking me questions, that's</p> <p>12 not really the way this works. But just so you</p> <p>13 know, it's important for us to know all of your kin</p> <p>14 that are in Aiken County because if they happen to</p> <p>15 be on the jury, we need to know who they are, that</p> <p>16 way we can strike them from the jury. So all —</p> <p>17 A Absolutely.</p> <p>18 Q — these background questions are to get at those</p> <p>19 issues, so they are, in fact, relevant to this</p> <p>20 case. What is your husband's name?</p> <p>21 A Artie, A-r-t-I-e Lee L-e-e, Walker, Jr.</p> <p>22 Q Okay. And how many children do you have?</p> <p>23 A Four.</p> <p>24 Q All right. What are their names?</p> <p>25 A Tyler, Tyler Walker a female, Tyson Walker a</p>
<p style="text-align: right;">6</p> <p>1 it's concluded, so — well, you can talk to him,</p> <p>2 just not about the testimony you're giving and the</p> <p>3 issues in this case.</p> <p>4</p> <p>5 MR. DAYHUFF: We can still talk about the weather.</p> <p>6 MR. DICK: Yeah. Talk about the weather as much as</p> <p>7 you'd like.</p> <p>8 THE WITNESS: Okay.</p> <p>9 MR. DICK: Which is actually nice today, yesterday</p> <p>10 it stormed on our way in.</p> <p>11</p> <p>12 Q Okay. Just to get a little bit of background on</p> <p>13 you, I'm assuming you are no longer married, is</p> <p>14 that correct?</p> <p>15 A No, I'm married.</p> <p>16 Q Okay. So you're remarried?</p> <p>17 A Uh-huh.</p> <p>18 Q Okay.</p> <p>19 A I'm married to my husband, yes.</p> <p>20 Q Is this the same husband who —</p> <p>21 A It's the same father of my children from before.</p> <p>22 Q Okay. So how many times have you been married</p> <p>23 then?</p> <p>24 A I've been married one time.</p> <p>25 Q One time. Okay.</p>	<p style="text-align: right;">8</p> <p>1 female, Tate Walker a male, Teagan Walker a male.</p> <p>2 Q What are the ages on those?</p> <p>3 A Fourteen, four, she will be five this month, Tate</p> <p>4 is three, and Teagan is two.</p> <p>5 Q Okay. Are you originally from Aiken County?</p> <p>6 A No, sir.</p> <p>7 Q No. Is your husband?</p> <p>8 A No, sir.</p> <p>9 Q So aside from your husband, do you all have any</p> <p>10 other family in Aiken County?</p> <p>11 A No, sir.</p> <p>12 Q Okay. What is your educational history, I guess</p> <p>13 starting with high school?</p> <p>14 A Went to John Kennedy High School, Silver Spring,</p> <p>15 Maryland, graduated in 1990. And from there I went</p> <p>16 to the University of Maryland, Baltimore County and</p> <p>17 left there four years later with a degree in</p> <p>18 chemistry, a bachelor's of science. I then went to</p> <p>19 John Hopkins Medical School immediately following</p> <p>20 graduation where I spent four years there. And</p> <p>21 then I went immediately from there to residency at</p> <p>22 the York Hospital in York, Pennsylvania. York</p> <p>23 Hospital is now called WellSpan because it's joined</p> <p>24 several hospitals. From there, I came here.</p> <p>25 Q Okay. Sorry, what did you say, York Hospital, what</p>

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<p style="text-align: right;">9</p> <p>1 was your — why were you there, that was your</p> <p>2 residency, is that what you said?</p> <p>3 A My residency in OB/GYN. I spent four years there.</p> <p>4 Q Okay. Did you grow up in Maryland?</p> <p>5 A I grew up in Maryland, yes, sir.</p> <p>6 Q Okay. So immediately after your residency at York</p> <p>7 Hospital you came to ARMC?</p> <p>8 A I came to Aiken OB/GYN.</p> <p>9 Q Okay. What precipitated your move from, I guess,</p> <p>10 York Hospital down to Aiken?</p> <p>11 A A job. I had a job at Aiken OB/GYN as an</p> <p>12 obstetrician/gynecologist.</p> <p>13 Q Okay. So Aiken OB/GYN already existed when you</p> <p>14 moved down here?</p> <p>15 A Yes, sir.</p> <p>16 Q And who were the, I guess, the partners of Aiken</p> <p>17 OB/GYN when you came down here?</p> <p>18 A James Boehner and Robert Boone.</p> <p>19 Q Okay.</p> <p>20 A There was also a nurse practitioner that was there</p> <p>21 in the practice prior to me being there.</p> <p>22 Q Okay.</p> <p>23 A Her name is Andriena Angle.</p> <p>24 Q And how did it come that you got into contact with</p> <p>25 Aiken OB/GYN and they offered you a job?</p>	<p style="text-align: right;">11</p> <p>1 A Yes, sir.</p> <p>2 Q Okay. Is that an LLC or is it a partnership, do</p> <p>3 you know?</p> <p>4 A I don't know the legal term behind that, Sir, I'll</p> <p>5 be honest with you.</p> <p>6 Q Okay. What year was it that you came to Aiken</p> <p>7 OB/GYN?</p> <p>8 A 2002.</p> <p>9 Q Okay. In your practice do you do primarily OB</p> <p>10 versus, you know, gynecology or is there, I guess,</p> <p>11 what would you say your split is, in terms of</p> <p>12 gynecological work versus obstetrical work?</p> <p>13 A I've have to see more numbers on that, to be honest</p> <p>14 with you, but if I had to guess, which is all this</p> <p>15 would be, I would say that I do - I'm a younger</p> <p>16 partner - so I probably do more obstetrics. I do</p> <p>17 most of the obstetrical patients and I do some</p> <p>18 surgery. I have a pretty heavy practice in both</p> <p>19 but I could not give you an accurate percentage</p> <p>20 mix.</p> <p>21 Q Okay. And why, I mean, you say you're a younger</p> <p>22 partner.</p> <p>23 A Uh-huh.</p> <p>24 Q Why does that tend to mean that you would do more</p> <p>25 OB?</p>
<p style="text-align: right;">10</p> <p>1 A When you're near the end of your residency you</p> <p>2 begin compiling your resume. The resume went</p> <p>3 through various sources, including head hunters.</p> <p>4 The head hunter saw the resume and felt that this</p> <p>5 would be a good pick. I wanted to be in the south</p> <p>6 and this practice is in the south. And we started</p> <p>7 from there.</p> <p>8 Q So then, I guess, did you go through an interview</p> <p>9 process and that sort of thing?</p> <p>10 A Absolutely.</p> <p>11 Q Okay. And did you obtain privileges at ARMC before</p> <p>12 you accepted that job or did you accept the job and</p> <p>13 then apply for privileges, how does that generally</p> <p>14 work?</p> <p>15 A To be honest with you, I can't tell which came</p> <p>16 first.</p> <p>17 Q Okay.</p> <p>18 A But it was all in the same timeframe that I did</p> <p>19 both together.</p> <p>20 Q Okay. Are you now a partner in the Aiken OB/GYN?</p> <p>21 A Yes.</p> <p>22 Q Okay. So does Aiken OB/GYN have three partners</p> <p>23 now, you, Boone, and Boehner, is that correct?</p> <p>24 A Uh-huh.</p> <p>25 Q Okay. Say yes if —</p>	<p style="text-align: right;">12</p> <p>1 A You know, you just do when you're younger. That</p> <p>2 seems to be where your patients come from and as</p> <p>3 they get older they need more surgery. You tend to</p> <p>4 have a younger mix.</p> <p>5 Q Okay. Do the majority of your patients come from</p> <p>6 the Aiken area, I take it?</p> <p>7 A As far as I know. Some are from outside of Aiken,</p> <p>8 I don't know if it's Aiken County or the City of</p> <p>9 Aiken but some do come from New Ellington or</p> <p>10 outside areas. I mean, I see all kinds of cities.</p> <p>11 Q And, I guess, how do you get most of your patients,</p> <p>12 just through referrals or —</p> <p>13 A At this time, the new gynecologic patients that I</p> <p>14 take are by physician referral or by current</p> <p>15 patient recommendation. I don't have a practice</p> <p>16 that's just open to the general public, because I'm</p> <p>17 booked pretty much. The obstetrical patients I do</p> <p>18 take, some of them are recurring patients and some</p> <p>19 are new ones that come, but gynecologywise it's by</p> <p>20 physician referral mainly.</p> <p>21 Q Okay. I guess your connection with ARMC is simply</p> <p>22 that you have privileges here and your patients who</p> <p>23 are in your private practice this is where you do</p> <p>24 surgeries and deliver children, is that correct, is</p> <p>25 that basically what your, I guess, clinical</p>

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<p style="text-align: right;">13</p> <p>1 connection with ARMC would be?</p> <p>2 A That's where my connection comes from, yes.</p> <p>3 Q Okay. And then you also serve as, I think, the</p> <p>4 chief of surgery, is that correct?</p> <p>5 A Not at this time.</p> <p>6 Q Okay.</p> <p>7 A I was the chief of surgery, my term ended at the</p> <p>8 end of 2010.</p> <p>9 Q Okay. When did you become the chief of surgery?</p> <p>10 A That would have to be - and, again, this is a guess</p> <p>11 - January 2008, because the terms are typically two</p> <p>12 years.</p> <p>13 Q Okay. And how —</p> <p>14 A I think it was 2009. Yeah. I want to say it was</p> <p>15 2009 actually, because 2009 is one year and 2010 is</p> <p>16 the next year.</p> <p>17 Q Right, okay. And how do you become appointed as</p> <p>18 the chief of surgery?</p> <p>19 A You're voted in by the medical staff.</p> <p>20 Q Okay. And were you voted, I guess, were you voted</p> <p>21 in by the medical staff?</p> <p>22 A Uh-huh, yes, sir.</p> <p>23 Q Yes. And that would have been, I guess, when did</p> <p>24 that take place?</p> <p>25 A Again, this would be a guess but it has to be in</p>	<p style="text-align: right;">15</p> <p>1 A As chief of surgery I managed things like when it</p> <p>2 was time for reappointment, you had to sign off</p> <p>3 based upon number of cases, various physicians to</p> <p>4 continue doing privileges that they had before,</p> <p>5 making sure that they had enough cases to continue</p> <p>6 according to what they would point out to you with</p> <p>7 the bylaws. At times it was conflict management,</p> <p>8 if there was issues concerning block time, issues</p> <p>9 concerning things like not coming to the operating</p> <p>10 room in a timely fashion. I had a wide range of</p> <p>11 duties associated with that, and at times chart</p> <p>12 review.</p> <p>13 Q Okay. So was it mostly administrative duties then?</p> <p>14 I mean, all this stuff that you just said kind of</p> <p>15 sounded like it was more administrative than, I</p> <p>16 guess, clinical.</p> <p>17 A There are no clinical duties, as far as I know --</p> <p>18 Q Okay.</p> <p>19 A -- that occurred during my term, other than my</p> <p>20 routine patients.</p> <p>21 Q Okay. Other than, I guess, chart review would kind</p> <p>22 of be considered clinical, right, because you're, I</p> <p>23 mean, you're looking at those for medical issues,</p> <p>24 correct?</p> <p>25 A I can't recall the reason I looked at all the chart</p>
<p style="text-align: right;">14</p> <p>1 2008 before your term starts.</p> <p>2 Q What kind of meetings do you have?</p> <p>3 A Medical staff meetings.</p> <p>4 Q Is there like a general election meeting or each</p> <p>5 year, how does that process work, generally?</p> <p>6 A I don't have the process memorized, Mr. Dick. I</p> <p>7 would have to go back and look at the bylaws as to</p> <p>8 when all those things occurred.</p> <p>9 Q Okay. But just best guess, I mean, obviously</p> <p>10 everything that we're talking about today is just</p> <p>11 to the best recollection. I'm not asking you to</p> <p>12 recite from any of the bylaws or the procedures,</p> <p>13 I'm just asking generally how does that election</p> <p>14 procedure work and —</p> <p>15 A There's a meeting and there's a ballot and the</p> <p>16 ballot is drawn. And I know that you can decide on</p> <p>17 who you'd like the person to be and your ballot is</p> <p>18 handed to a staff, not an actual physician, but</p> <p>19 someone who works for physician services who</p> <p>20 tallies all the votes. And sometime later, and I</p> <p>21 don't know if it's the same day or the day after,</p> <p>22 the votes are counted and the person who's voted in</p> <p>23 gets distributed.</p> <p>24 Q Okay. What were your, I guess, your duties as</p> <p>25 chief of surgery?</p>	<p style="text-align: right;">16</p> <p>1 reviews. Some were medical and I believe some were</p> <p>2 for other reasons, but I can't recall all of them,</p> <p>3 no, sir.</p> <p>4 Q Okay. And when you say chart review, I guess, what</p> <p>5 do you mean by chart review, is that part of the</p> <p>6 peer review process, is that — I guess just</p> <p>7 explain to me what you mean by chart review or what</p> <p>8 you would do when you say chart review.</p> <p>9 A Some of it is just number counting, counting how</p> <p>10 many of this you see, make sure they can continue</p> <p>11 doing that procedure. And that was the bulk of it.</p> <p>12 And occasionally you would get a case in which, you</p> <p>13 know, I can't give you a specific, Sir, I really</p> <p>14 can't, because it's so long ago.</p> <p>15 Q When you say counting, what were you counting?</p> <p>16 Counting these is what you said, I don't know what</p> <p>17 these are?</p> <p>18 A These could be number of total knee replacements,</p> <p>19 is a specific physician okay to continue doing</p> <p>20 total knees. And they just have to do a certain</p> <p>21 number of proficiency that shows they've done at</p> <p>22 least one case in a certain amount of time that</p> <p>23 they can continue to do that.</p> <p>24 Q Okay.</p> <p>25 A Determinations like that and be the primary surgeon</p>

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<p style="text-align: right;">17</p> <p>1 as opposed to an assistant surgeon.</p> <p>2 Q So is that what you were referring to in the</p> <p>3 reappointment, that you'd just make sure that, and</p> <p>4 I'm assuming — well, I'll just let you tell me,</p> <p>5 what is reappointment exactly?</p> <p>6 A Every few years, and I couldn't tell you exactly</p> <p>7 how long, physicians have to reapply for the</p> <p>8 privileges to say that I still want to do a certain</p> <p>9 list of, you know, procedures. And they have to</p> <p>10 demonstrate they've done those cases in that</p> <p>11 timeframe to be able to stay proficient.</p> <p>12 Q Okay. Did you, I guess, hold any other positions</p> <p>13 at ARMC?</p> <p>14 A Yes.</p> <p>15 Q And what were those?</p> <p>16 A Prior to chairman of surgery, I was the assistant</p> <p>17 chair of surgery. And prior to that, and I can't</p> <p>18 tell you how many years I spent on this committee,</p> <p>19 I was on the credentials committee. And I'm on</p> <p>20 credentials now.</p> <p>21 Q Okay. The assistant chair, would that have been</p> <p>22 two years prior to your, or for the two years prior</p> <p>23 to you being the chairman of surgery?</p> <p>24 A Yes, sir.</p> <p>25 Q Okay. So roughly '07 to '09 I guess?</p>	<p style="text-align: right;">19</p> <p>1 Q Okay. And then as the assistant chair of surgery,</p> <p>2 what were your duties under that position?</p> <p>3 A I did help with reappointment because there's a lot</p> <p>4 of charts for one person to do. So when I was the</p> <p>5 assistant chair, there's a lot of reappointments,</p> <p>6 there are a lot of surgeons here and a lot of</p> <p>7 numbers to count. When I was assistant, I helped</p> <p>8 Dr. Carter who was the surgical chair and when I</p> <p>9 was the chairman, my associate chair helped me with</p> <p>10 reappointments too.</p> <p>11 Q Okay.</p> <p>12 A Occasionally if Dr. Carter was not in town and</p> <p>13 couldn't handle a problem that they needed me to</p> <p>14 handle, then we did that, then I did that.</p> <p>15 Q Okay. And are you also on the MEC?</p> <p>16 A While you are the associate chair, assistant chair,</p> <p>17 you are on the MEC as a member, and while you're</p> <p>18 the chairman, you're on the MEC because you're the</p> <p>19 chair person.</p> <p>20 Q Okay. So were you a member of the MEC from</p> <p>21 basically '07 until the end of 2010, would that be</p> <p>22 correct?</p> <p>23 A I was on it for four years during my term of</p> <p>24 assistant chair and chairman of surgery.</p> <p>25 Q Okay. Were you ever on it prior to that?</p>
<p style="text-align: right;">18</p> <p>1 A Right.</p> <p>2 Q And you say you don't recall the time period for</p> <p>3 the credentials committee?</p> <p>4 A It was before that. I didn't start, you're not</p> <p>5 eligible to even to be asked to be on committees,</p> <p>6 typically -- I know that for myself personally, I</p> <p>7 was asked to say could you, could you be on a</p> <p>8 certain committee, that's how I started out with</p> <p>9 credentials or would you run for a certain</p> <p>10 committee. And that's how those types of things</p> <p>11 started. When I came, you were not eligible to be</p> <p>12 on a committee until you were here for a year or</p> <p>13 two, I want to say it was two but you can't quote</p> <p>14 me on that. Well, I guess you're going to quote</p> <p>15 me, but I can't give you the exact number.</p> <p>16 Q Okay.</p> <p>17 A Once I became eligible, that's how the credentials</p> <p>18 committee came about.</p> <p>19 Q And so did you resign from the credentials</p> <p>20 committee when you were assistant chair and chair</p> <p>21 of surgery, or did you continue?</p> <p>22 A I was not on the credentials during that time, no,</p> <p>23 sir.</p> <p>24 Q Okay. But you're back on it now?</p> <p>25 A I'm back on credentials now.</p>	<p style="text-align: right;">20</p> <p>1 A No.</p> <p>2 Q Okay. Are you on the MEC now then?</p> <p>3 A No.</p> <p>4 Q Have you ever been on the peer review committee?</p> <p>5 A No, sir.</p> <p>6 Q Okay. Do you know what positions at ARMC Dr.</p> <p>7 Boehner holds?</p> <p>8 A Right now?</p> <p>9 Q Yeah, right now.</p> <p>10 A Right now he is chairman of the board, I believe.</p> <p>11 Q Okay. What about Dr. Boone?</p> <p>12 A I believe Dr. Boone was on medical peer review. I</p> <p>13 believe, and, again, this is just guessing, that he</p> <p>14 is on pharmacy committee. Now, I'm not sure the</p> <p>15 name of that pharmacy committee. I believe he's on</p> <p>16 the pharmacy committee right now. He's no longer</p> <p>17 on peer review. He was on peer review during my</p> <p>18 time, you know, here at Aiken OB/GYN.</p> <p>19 Q Okay.</p> <p>20 A He was on peer review at some time. Now, I</p> <p>21 couldn't tell you the years of that.</p> <p>22 Q Okay. Is there a, I don't know, chair or head of</p> <p>23 the OB/GYN department?</p> <p>24 A OB/GYN is not a department.</p> <p>25 Q Okay.</p>

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<p style="text-align: right;">21</p> <p>1 A OB/GYN falls under the arm of department of</p> <p>2 surgery. There is a section chair person.</p> <p>3 Q Okay.</p> <p>4 A Who that section chair person is right now, I don't</p> <p>5 know who that person is.</p> <p>6 Q Okay. Do you know who the last, I guess, well,</p> <p>7 who's the last chair or section chair that you</p> <p>8 recall?</p> <p>9 A Again, it'd be a guess, but I believe Dr. Boone was</p> <p>10 it at one time since I've been here. I know Dr.</p> <p>11 Hoover has been the peri-natal section chair at one</p> <p>12 time when I was here. Who else has been on it in</p> <p>13 the nine years, I couldn't tell you.</p> <p>14 Q Okay. Do you know how those section chairs are</p> <p>15 appointed?</p> <p>16 A No.</p> <p>17 Q Okay. Do you know how the peer review committees</p> <p>18 are appointed?</p> <p>19 A No. I don't know how any committee is necessarily</p> <p>20 appointed like what the rules are.</p> <p>21 Q Okay.</p> <p>22 A I do know that if someone is eligible for the</p> <p>23 committee, I can speak for myself, I received a</p> <p>24 phone call from a gentleman named Jason Fancey who</p> <p>25 was here at the time, he was a pathologist, and he</p>	<p style="text-align: right;">23</p> <p>1 at one time before I was really a partner there, I</p> <p>2 was more an associate, there was some thought of</p> <p>3 possibly seeing patients on the south side. And we</p> <p>4 saw patients on the south side for one or two</p> <p>5 sessions, I'm not sure who owned that property.</p> <p>6 Q And that raises another question. I guess, in 2002</p> <p>7 when you came to Aiken OB/GYN you were an</p> <p>8 associate, when did you become a partner of that</p> <p>9 practice?</p> <p>10 A My associate term lasted one year.</p> <p>11 Q Okay.</p> <p>12 A And then in order to pay my way in, I actually</p> <p>13 chose to do time, which was three years as opposed</p> <p>14 to a formal buy in.</p> <p>15 Q So four years before you became partner?</p> <p>16 A Uh-huh.</p> <p>17 Q So in 2006, I guess?</p> <p>18 A Uh-huh.</p> <p>19 Q Okay. And is that an equal partnership, are all --</p> <p>20 A What does that mean? Because practices really</p> <p>21 aren't worth anything today. It means we all get</p> <p>22 the same pay, we all get the same benefits.</p> <p>23 Q I mean, how do you all --</p> <p>24 A And I believe Dr. Boone and Boehner own that</p> <p>25 property, but I don't own property.</p>
<p style="text-align: right;">22</p> <p>1 said you're eligible to be on committees now, do</p> <p>2 you want to be on committees because we'd like to</p> <p>3 put, you know, get your name out there for a</p> <p>4 committee. And that was the sum total of the</p> <p>5 discussion.</p> <p>6 Q Okay.</p> <p>7 A The rest of what happened behind the scenes, I</p> <p>8 could not tell you.</p> <p>9 Q Okay. Do you or Aiken OB/GYN receive any funds</p> <p>10 from ARMC or any subsidies from ARMC?</p> <p>11 A I don't receive any subsidies from ARMC at this</p> <p>12 time. When I was first in town, I believe my</p> <p>13 salary was supplemented when I first got here, but</p> <p>14 all that money had to be repaid and has been</p> <p>15 repaid. But at this time we have no monetary</p> <p>16 agreements, to my knowledge, with Aiken Regional,</p> <p>17 at this time, as far as I know.</p> <p>18 Q And when you say we, do you mean you and Aiken</p> <p>19 OB/GYN?</p> <p>20 A I mean the practice as far as I know has not, has</p> <p>21 no monetary agreement with them, as far as I know.</p> <p>22 Q Your all's office, is that a private office?</p> <p>23 A It's a private office.</p> <p>24 Q Have y'all ever rented space from ARMC?</p> <p>25 A I'm not sure, to be honest with you. I know that</p>	<p style="text-align: right;">24</p> <p>1 Q Okay.</p> <p>2 A Right. But as far as bills, we share in the bills,</p> <p>3 as far as pay, we share in the pay. As far as, you</p> <p>4 know.</p> <p>5 Q Well, in terms of pay, do you all, do you take home</p> <p>6 what you bring in or is it literally what the</p> <p>7 practice earns you split three ways?</p> <p>8 A It's what the practice earns.</p> <p>9 Q Okay.</p> <p>10 A We take a salary is how that works, we have a</p> <p>11 monthly salary and then we pay the bills with the</p> <p>12 rest. That's how our partnership works.</p> <p>13 Q Okay.</p> <p>14 A We operate -- I guess I'll just stop there.</p> <p>15 Q How many people do you have on staff right now, at</p> <p>16 your practice?</p> <p>17 A I hope I'm not missing anybody, I could start</p> <p>18 counting.</p> <p>19 Q We won't tell them.</p> <p>20 A Are you talking about front people, back people?</p> <p>21 Q How about if you can break it up, then break it up</p> <p>22 for me.</p> <p>23 A Okay. We have three physicians at this point.</p> <p>24 Q Okay.</p> <p>25 A There's myself, there's Dr. Boone, there's Dr.</p>

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<p style="text-align: right;">25</p> <p>1 Boehner. There's two nurse practitioners at this 2 point, there's Andriena Angle and Janet Powell. We 3 have two managers, we have a nursing manager, her 4 name is Jeannie Parkman and under Jeannie are all 5 the medical staff and that includes two 6 ultrasonographers, and there's Beth, Jennifer, 7 gosh, there's what's her name's nurse, Heather, 8 Andrea, I believe four. 9 Q Okay. 10 A Because she doubles as managing as well as seeing 11 patients. And then front office staff there is 12 Melissa, there's Callie, there's two other people 13 in the back. And then in the front there's check 14 in, forms, surgery scheduling, check out, phones, 15 and the float, so how many ever that was. 16 Q Okay. 17 A That's what I believe, at this point. 18 Q Do you have privileges at any other hospitals? 19 A No. 20 Q Okay. Do you know if Boehner or Boone have 21 privileges at any other hospitals? 22 A Hospitals, no, I don't believe so. 23 Q Okay. 24 A Hospitals, no. 25 Q Okay. Your answer seems to indicate that there's</p>	<p style="text-align: right;">27</p> <p>1 Q Okay. 2 A I'm talking about from my personal pocketbook, I 3 did not see how what was coming out of my 4 pocketbook and all of the people who were going to 5 do the surgery center, how that was going to work 6 financially, period. 7 Q Okay. 8 A Nothing to do with ARMC. 9 Q Were you here when, I guess, ARMC sold their 10 portion of the surgery center to the physicians 11 that were the, I guess, the current partners? 12 A I didn't know that happened. Once I chose not to 13 participate financially, the details of what 14 happened in the surgery center didn't have anything 15 to do with me. 16 Q Okay. Are Boehner and/or Boone members of the 17 surgery center? 18 A They are. 19 Q Okay. Mark that Exhibit No. 1, I guess. 20 21 (Whereupon, Email, consisting of 1 page, 22 was marked Exhibit No. 1 for 23 identification.) 24 25 Q Exhibit No. 1 was just handed to you. Have you</p>
<p style="text-align: right;">26</p> <p>1 something other than hospitals. 2 A I'm saying does the surgery center count, we can 3 operate at the surgery center too. 4 Q Okay. So no other hospital privileges, -- 5 A No. 6 Q -- but privileges at the surgery center. 7 A At the surgery center, we can post cases there. 8 Q Okay. And do you have privileges at the surgery 9 center also? 10 A I can post cases at the surgery center. 11 Q Are you a member of the surgery center? 12 A No. 13 Q Okay. Have you ever been a member of the surgery 14 center? 15 A You mean financial partner, no. 16 Q No. And why, you seem, why the expression in that 17 answer, I guess? 18 A I've just, I didn't choose to participate because I 19 wasn't sure how it would work financially. 20 Q And I guess there's been a lot of controversy 21 between the hospital and the surgery center and 22 maybe that's where some of your -- 23 A No, that's not. I don't know about any controversy 24 between the hospital and the surgery center. I 25 know of none.</p>	<p style="text-align: right;">28</p> <p>1 ever seen this email before? 2 A I saw this email today. 3 Q Okay. Do you know if Dr. Boehner has sold his 4 share of the surgery center? 5 A I have no idea if he sold it. 6 Q Do you know why he's selling his share? 7 A I don't know the answer to that specifically. I 8 believe the reason is, is it just didn't work out 9 with our schedules and the way things were being 10 posted to continue. 11 Q Okay. 12 A And I believe that their agreement, and this is 13 just all guessing, that you have to operate a 14 certain percentage out of the surgery center in 15 order for them to want you to continue to be a 16 monetary partner. 17 Q Okay. 18 A And I don't believe that the two of them operated 19 enough for the surgery center. 20 Q I'm sorry, so did you say that Dr. Boone was also a 21 partner in the surgery center? 22 A (Non-verbal Response) 23 Q Okay. Sorry, you have to say yes or no. 24 A Yes. 25 Q Okay. Do you know if his shares are also for sale</p>

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<p style="text-align: right;">29</p> <p>1 or have been sold?</p> <p>2 A I don't know if they've been sold.</p> <p>3 Q But they're —</p> <p>4 A I don't know if they're up for sale, I don't have a</p> <p>5 piece of paper in front of me saying they are.</p> <p>6 Q Okay. How often do you operate out of the surgery</p> <p>7 center?</p> <p>8 A In the last six months, I would say zero.</p> <p>9 Q Okay. In the six months prior to that, how much?</p> <p>10 A I couldn't guess, but it would be very close to</p> <p>11 zero.</p> <p>12 Q Okay.</p> <p>13 A Me personally, with running back and forth, it just</p> <p>14 didn't work for me.</p> <p>15 Q So in the last year, you haven't, you don't think</p> <p>16 you've really —</p> <p>17 A I don't believe so. I don't know what day my last</p> <p>18 case was over there. For me, it just didn't work.</p> <p>19 Q Okay. Did you ever operate out of the surgery</p> <p>20 center on a, I guess, a frequent basis?</p> <p>21 A Never frequently. I may have posted a case or two,</p> <p>22 it'd be under ten there.</p> <p>23 Q So under ten total in your entire span?</p> <p>24 A In my entire career. It just did not work for me.</p> <p>25 Q Okay. What about, do you know if Dr. Boone or Dr.</p>	<p style="text-align: right;">31</p> <p>1 yes.</p> <p>2 Q Okay. Are you familiar with how these are enacted,</p> <p>3 I guess?</p> <p>4 A I could not tell you, no.</p> <p>5 Q Okay. Have you voted on them before?</p> <p>6 A Yes.</p> <p>7 Q Okay. Do you know when?</p> <p>8 A No.</p> <p>9 Q In the time that you've been here, which I guess is</p> <p>10 — And I'm assuming you've had privileges at ARMC</p> <p>11 from 2002 until the present, is that correct?</p> <p>12 A Yes, sir.</p> <p>13 Q Okay. So in that time, do you know how many times</p> <p>14 you voted on the medical staff bylaws?</p> <p>15 A No. I know that there are pieces of paper that</p> <p>16 come over, a section that they want you to look</p> <p>17 over and if you have any objections you raise them,</p> <p>18 but how many times I've voted, I could not give you</p> <p>19 an answer to that.</p> <p>20 Q Okay. And does that voting also occur at your, I</p> <p>21 guess, medical staff meetings?</p> <p>22 A I don't know if that's the only voting, I couldn't</p> <p>23 tell you.</p> <p>24 Q Okay. And I'm assuming the medical staff meetings</p> <p>25 are just the physicians in the hospital, is that</p>
<p style="text-align: right;">30</p> <p>1 Boehner have been operating out of the surgery</p> <p>2 center?</p> <p>3 A I don't believe they have been operating.</p> <p>4 Q Okay.</p> <p>5 A At least not that I've assisted them. We tend to</p> <p>6 assist each other on almost every case, but their</p> <p>7 minors, D&Cs that don't require assistance, I mean,</p> <p>8 I don't know the answer to that but they could have</p> <p>9 posted, but I don't believe so.</p> <p>10 Q Okay. That's fine. The medical staff bylaws, I</p> <p>11 guess, are you familiar with them? And I can go</p> <p>12 ahead and hand you them just so you have them.</p> <p>13 Mark that Exhibit No. 2.</p> <p>14</p> <p>15 (Whereupon, Medical Staff Bylaws,</p> <p>16 consisting of 156 pages, was marked</p> <p>17 Exhibit No. 2 for identification.)</p> <p>18</p> <p>19 Q Do you recognize Exhibit No. 2 that's been handed</p> <p>20 to you?</p> <p>21 A I recognize the front sheet.</p> <p>22 Q Okay. I guess you can flip through it if you want,</p> <p>23 but does that appear to be the Aiken Regional</p> <p>24 Medical Center's medical staff bylaws?</p> <p>25 A It appears to be the copy that you've given me,</p>	<p style="text-align: right;">32</p> <p>1 correct?</p> <p>2 A The CEO is there and staff people are there, like</p> <p>3 Terri and Sharon.</p> <p>4 Q Okay.</p> <p>5 A They're at the meetings.</p> <p>6 Q Do you know if they vote though?</p> <p>7 A I don't believe they vote, but I don't know the</p> <p>8 answer concretely to that.</p> <p>9 Q I guess nurses aren't at the, nurses don't vote on</p> <p>10 these types of issues or things like that, right?</p> <p>11 A Not that I know of.</p> <p>12 Q Okay. This is Exhibit No. 3.</p> <p>13</p> <p>14 (Whereupon, Letter, consisting of 7</p> <p>15 pages, was marked Exhibit No. 3 for</p> <p>16 identification.)</p> <p>17</p> <p>18 MR. DAYHUFF: Is this the September 14th letter?</p> <p>19 MR. DICK: Yes.</p> <p>20</p> <p>21 Q All right. Do you recognize Exhibit No. 3 that was</p> <p>22 just handed to you?</p> <p>23 A Yes.</p> <p>24 Q Okay. And what is that?</p> <p>25 A This is a letter that members of the medical staff</p>

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<p style="text-align: right;">33</p> <p>1 wrote to Mr. Miller at UHS about a turnover in the</p> <p>2 pathology department.</p> <p>3 Q Okay. And I guess flip to page, I think, there's</p> <p>4 no page numbers but I believe it is page five.</p> <p>5 A Yes.</p> <p>6 Q Second signature from the bottom, is that your</p> <p>7 signature there?</p> <p>8 A That is mine.</p> <p>9 Q Okay. What was, I guess, could you explain the</p> <p>10 situation that arose that caused the medical staff</p> <p>11 to write this letter and for you to sign it.</p> <p>12 A For me to sign it was there was a turnover in the</p> <p>13 pathology department. The details of why there was</p> <p>14 a turnover, I was not privy to, but I knew that our</p> <p>15 pathologists were leaving and I like our</p> <p>16 pathologists, or liked the pathologists, I thought</p> <p>17 they did good work and I was sad to see them go.</p> <p>18 And I was hoping we could, you know, the hospital</p> <p>19 and the group could work out whatever their</p> <p>20 differences were so that they could stay and</p> <p>21 continue being pathologists.</p> <p>22 Q Okay. Do you know if there was ever any resolution</p> <p>23 to that situation?</p> <p>24 A I don't believe there was one. I know that the</p> <p>25 pathologists still work in town, they operate their</p>	<p style="text-align: right;">35</p> <p>1 building.</p> <p>2 Q Okay. So anything removed during surgery has to go</p> <p>3 to the ARMC pathologist?</p> <p>4 A Yes.</p> <p>5 Q Okay. Well, I don't know these types of things.</p> <p>6 You act very, very like it's a matter of fact but</p> <p>7 --</p> <p>8 A You can't just take a uterus out of the building,</p> <p>9 you have to --</p> <p>10 Q Well, clearly they bring in hearts and all sorts of</p> <p>11 things from outside the building, so it's --</p> <p>12 A Well, yes, those are for transplant, those are not</p> <p>13 for surgical specimen.</p> <p>14 Q Okay.</p> <p>15</p> <p>16 MR. DAYHUFF: Have you been taking organs out of</p> <p>17 here when you leave?</p> <p>18 MR. DICK: Yeah. Slipping a heart in my back</p> <p>19 pocket, you know.</p> <p>20</p> <p>21 A They do not allow you to take them out of the</p> <p>22 building.</p> <p>23 Q Okay. Do you know what the policy reasons for that</p> <p>24 are?</p> <p>25 A I do not know what the policy reasons are. I could</p>
<p style="text-align: right;">34</p> <p>1 lab in town and there's a new group of pathologists</p> <p>2 here.</p> <p>3 Q Okay. Is that lab, is that in the same building</p> <p>4 that you're in or is . . .</p> <p>5 A I think so. I'm not sure where the lab is located,</p> <p>6 I think it is. They send a courier around we don't</p> <p>7 drop off our specimens.</p> <p>8 Q Okay. Do you send stuff to, or sorry, stuff is not</p> <p>9 a very good term, but do you send, I guess,</p> <p>10 pathological work to that prior group, and I think</p> <p>11 that is Denise Parnell and Bonnie Szymik, is that</p> <p>12 correct?</p> <p>13 A We do send pathology specimens to Dr. Parnell, Dr.</p> <p>14 Szymik, and Dr. Fancey, yes.</p> <p>15 Q Okay.</p> <p>16 A We send our, some of our lab -- I mean, I know</p> <p>17 people use the labs and the patients use the lab in</p> <p>18 that building, and that's one of the labs in the</p> <p>19 building.</p> <p>20 Q Okay. Do you send your pap smears to them?</p> <p>21 A Yes, sir. We send some pap smears there.</p> <p>22 Q Okay. Do you also use the hospital's in-house</p> <p>23 pathologists?</p> <p>24 A Yes. All surgical specimens must go to the</p> <p>25 pathologist, you can't take them outside of the</p>	<p style="text-align: right;">36</p> <p>1 assume they were for contamination issues.</p> <p>2 Q Okay.</p> <p>3 A I'm sure the population wouldn't like us to be</p> <p>4 taking uteruses out with us in a back pocket.</p> <p>5 Q I mean, is there a written policy on that or is it</p> <p>6 just that's how it's always been done, or . . .</p> <p>7 A It's on the consent form, I believe it says</p> <p>8 specimens are sent to pathologists. The one you</p> <p>9 have, that's the one I've been using since I've</p> <p>10 been here.</p> <p>11 Q Okay, all right. How long have you known Dr. Muniz</p> <p>12 for?</p> <p>13 A I've known her since I've been here.</p> <p>14 Q Since 2002?</p> <p>15 A 2002.</p> <p>16 Q When you came in 2002 who was she working for or</p> <p>17 with, do you remember?</p> <p>18 A I believe she was working with Dr. Besson.</p> <p>19 Q And have you ever worked with Dr. Muniz?</p> <p>20 A I was never in practice with Dr. Muniz.</p> <p>21 Q Okay. Have you ever performed surgery with Dr.</p> <p>22 Muniz?</p> <p>23 A I have been here when I've called her back once</p> <p>24 because one of her patients was bleeding.</p> <p>25 Q Okay. Have you ever taken call with Dr. Muniz?</p>

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<p style="text-align: right;">37</p> <p>1 A Our practice took call with Dr. Muniz, yes.</p> <p>2 Q Okay. When was that?</p> <p>3 A Exact years I could not tell you, but it has been</p> <p>4 in the time since I've been here. It was after she</p> <p>5 and Dr. Besson no longer took, were in partnership</p> <p>6 together and she joined Dr. Hoover. She and Dr.</p> <p>7 Hoover had their separate practice and our group</p> <p>8 had call with them.</p> <p>9 Q Okay. Do you remember how long that was for?</p> <p>10 A No.</p> <p>11 Q Six months, year, any kind of estimate?</p> <p>12 A It was over a year but I couldn't give a</p> <p>13 guestimate, I'd have to look at documents for that.</p> <p>14 Q And why did you all stop taking call with that</p> <p>15 group?</p> <p>16 A It just didn't work out. We still take call with</p> <p>17 Dr. Hoover but we decided, as a group, that it was</p> <p>18 not in our best interests to continue to take call</p> <p>19 with Dr. Muniz?</p> <p>20 Q Okay. And why was it not in your best interest?</p> <p>21 A Because some of the patients and some of the</p> <p>22 patient care problems were occurring and we just</p> <p>23 didn't want to continue that relationship.</p> <p>24 Q Was that a unanimous decision by your partnership,</p> <p>25 I guess, to stop taking call with —</p>	<p style="text-align: right;">39</p> <p>1 many steps and I'll try to be specific when I need</p> <p>2 to be, but I believe you were directly involved in</p> <p>3 both the second and first peer review actions</p> <p>4 against Dr. Muniz, is that correct?</p> <p>5 A Do you mean my involvement with the medical</p> <p>6 executive committee level?</p> <p>7 Q Yes.</p> <p>8 A That's it.</p> <p>9 Q Okay. That was your only involvement in —</p> <p>10 A In the first one just being on the medical</p> <p>11 executive committee.</p> <p>12 Q Okay. Let me — Is that Exhibit No. 4, is that</p> <p>13 right?</p> <p>14</p> <p>15 (Whereupon, Peer Review Minutes,</p> <p>16 consisting of 6 pages, was marked Exhibit</p> <p>17 No. 4 for identification.)</p> <p>18</p> <p>19 Q All right. Exhibit No. 4, I just want to make</p> <p>20 sure, I think I know your answer, were you involved</p> <p>21 in any of these, and take your time and look</p> <p>22 through them, any of these meetings of the medical</p> <p>23 peer review? It says medical peer review on the</p> <p>24 top and medical peer review committee on a couple</p> <p>25 of them.</p>
<p style="text-align: right;">38</p> <p>1 A We all decided together.</p> <p>2 Q Was there anything in particular, any specific</p> <p>3 incidents that made you all stop taking call with</p> <p>4 Dr. Muniz?</p> <p>5 A There were many instances, some of the patients did</p> <p>6 not like her, some of the patients wanted us to</p> <p>7 come in and take call for them specifically when</p> <p>8 they heard she was on call, and there were some</p> <p>9 patient care issues, there were also some issues</p> <p>10 with us having to take call for some of her</p> <p>11 patients and we just didn't want to continue the</p> <p>12 relationship.</p> <p>13 Q What would you say your relationship with Dr. Muniz</p> <p>14 is?</p> <p>15 A We don't have a relationship.</p> <p>16 Q Okay. What would you say your, I guess, your</p> <p>17 feelings towards each other are? What are your</p> <p>18 feelings toward Dr. Muniz?</p> <p>19 A We don't have a relationship at all. I would never</p> <p>20 say that we'd go to dinner and eat together or</p> <p>21 anything like that. Colleagues, that's it.</p> <p>22 Q Okay. I guess turning now to your involvement with</p> <p>23 these peer review processes that involved Dr.</p> <p>24 Muniz, and, again, I'll refer to them as a peer</p> <p>25 review process. I know that's general and involves</p>	<p style="text-align: right;">40</p> <p>1 A I was not on the medical peer review committee</p> <p>2 ever.</p> <p>3 Q Okay, all right. That's fine, I just wanted to</p> <p>4 make sure that was the case. I'm going to hand you</p> <p>5 Exhibit No. 5.</p> <p>6</p> <p>7 (Whereupon, MEC Minutes, consisting of 5</p> <p>8 pages, was marked Exhibit No. 5 for</p> <p>9 identification.)</p> <p>10</p> <p>11 MR. DAYHUFF: You need a break?</p> <p>12 THE WITNESS: No. I'm just waving the fly.</p> <p>13 MR. DICK: Yeah. They're back.</p> <p>14</p> <p>15 Q All right. Exhibit No. 5, take a minute, I guess,</p> <p>16 and flip through these but do you recognize these</p> <p>17 documents?</p> <p>18 A Okay. I see the minutes.</p> <p>19 Q Okay. Are these, I guess, the minutes for the</p> <p>20 medical executive committee?</p> <p>21 A As far as I know.</p> <p>22 Q Okay.</p> <p>23 A I don't take the minutes though, but as far as I</p> <p>24 know.</p> <p>25 Q Okay. And you would have been on the medical</p>

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<p style="text-align: right;">41</p> <p>1 executive committee at this time?</p> <p>2 A Yes, sir.</p> <p>3 Q Okay. I guess just looking at them individually,</p> <p>4 this first, the first page and it says at the</p> <p>5 bottom there just for the record ARMC0007, it</p> <p>6 indicates that you were present for this meeting.</p> <p>7 A Okay.</p> <p>8 Q Do you, I guess, recall discussion of - and you're</p> <p>9 going to have to help me pronounce that first word</p> <p>10 iatrogenic -- bladder?</p> <p>11 A Iatrogenic.</p> <p>12 Q -- bladder laceration with repair that required</p> <p>13 return to surgery. Recommendation is not clear on</p> <p>14 details. Defer recommendation until another report</p> <p>15 from peer review next month. Do you recall, is</p> <p>16 that involving Dr. Muniz?</p> <p>17 A I don't know which physician this is involving.</p> <p>18 Q Okay.</p> <p>19 A Because it doesn't say right here.</p> <p>20 Q Okay. So I'm assuming then you don't recall any</p> <p>21 talks about this bladder laceration?</p> <p>22 A Mr. Dick, in my time on the peer review, there were</p> <p>23 many, many discussions about problems associated</p> <p>24 with this particular surgeon, so what was discussed</p> <p>25 on any particular date I could not tell you in any</p>	<p style="text-align: right;">43</p> <p>1 they don't deliver babies. But all of these things</p> <p>2 are there and every person has to, if you fall in</p> <p>3 that criteria, a report's generated on you, if I</p> <p>4 fall into it, a report's generated on me. And</p> <p>5 there are multiple members of the committee that</p> <p>6 look at that piece of paper and staff that's on</p> <p>7 there that trends those pieces of paper. And then</p> <p>8 some of those things come up to the medical</p> <p>9 executive committee and we deal with what's given</p> <p>10 to us at the medical executive committee level.</p> <p>11 And then what we feel, it goes up to the board,</p> <p>12 then it goes up to the board.</p> <p>13 Q Okay.</p> <p>14 A That's my understanding. I don't know if that's</p> <p>15 the truth, but that's my understanding.</p> <p>16 Q Okay. Mark this Exhibit No. 6.</p> <p>17</p> <p>18 (Whereupon, Peer Review Form, consisting</p> <p>19 of 2 pages, was marked Exhibit No. 6 for</p> <p>20 identification.)</p> <p>21</p> <p>22 Q In Exhibit No. 6 that was just handed to you, is</p> <p>23 this an example of one of those, I guess, reports</p> <p>24 that's generated if certain criteria are met?</p> <p>25 A I've actually never seen one of these forms. I</p>
<p style="text-align: right;">42</p> <p>1 details. But there was discussion at meeting,</p> <p>2 after meeting, after meeting, after meeting about</p> <p>3 various surgical issues.</p> <p>4 Q Okay. It says defer recommendation until another</p> <p>5 report from peer review, how generally did you all</p> <p>6 operate in terms of, I guess, if there were</p> <p>7 problems presented to you? Would you all not,</p> <p>8 would you wait for a, I guess, a report from peer</p> <p>9 review and then the medical executive committee</p> <p>10 would act on it? I guess I'm trying to ask what</p> <p>11 the process of, the peer review process, how it</p> <p>12 worked and when the MEC and your involvement came</p> <p>13 into play?</p> <p>14 A My understanding is that there's certain criteria</p> <p>15 that's for all surgeons, in which if that occurs a</p> <p>16 report is generated in that regard. And then those</p> <p>17 reports are then referred to medical peer review</p> <p>18 and medical peer review talks about those reports.</p> <p>19 And every person who operates in this building,</p> <p>20 their medical complications and their surgical</p> <p>21 complications, there are a few extra for</p> <p>22 obstetricians because it involves a baby, things</p> <p>23 like lacerations, delivery before a certain</p> <p>24 gestational age, transfer of infants, that would</p> <p>25 not apply, for example, to an internist because</p>	<p style="text-align: right;">44</p> <p>1 thought it was on computer, so this -- I could not</p> <p>2 tell you.</p> <p>3 Q Okay. So you --</p> <p>4 A I've never been on peer review to receive one of</p> <p>5 these forms.</p> <p>6 Q Okay. So you don't receive these from peer review</p> <p>7 then from the MEC?</p> <p>8 A No.</p> <p>9 Q So what do you receive from peer review then?</p> <p>10 A We receive a summary from the peer review chair</p> <p>11 person who's on MEC.</p> <p>12 Q Okay. Is that like the minutes or is this</p> <p>13 literally an incident specific summary?</p> <p>14 A At times it's incident specific.</p> <p>15 Q Okay.</p> <p>16 A Where a summary is made.</p> <p>17 Q Okay.</p> <p>18 A We never see these forms.</p> <p>19 Q And I'm guessing looking at exhibit No. 6, you</p> <p>20 know, are you familiar with Dr. Boone's signature,</p> <p>21 is that his signature?</p> <p>22 A I can't verify his signature. I won't verify his</p> <p>23 signature.</p> <p>24 Q Okay. Regardless, I guess, since you say you've</p> <p>25 never seen this document, you've never filled one</p>

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<p style="text-align: right;">45</p> <p>1 of these out then?</p> <p>2 A No.</p> <p>3 Q Okay. Do you know who does generally fill these</p> <p>4 out?</p> <p>5 A I don't know who fills them out.</p> <p>6 Q Okay.</p> <p>7 A I believe it's the people on the peer review who</p> <p>8 fills them out.</p> <p>9 Q Okay, all right. Turning back to Exhibit No. 5</p> <p>10 then, if you flip to page two, it says Dr. Paxton</p> <p>11 presented the attached recommendation from peer</p> <p>12 review. I'm guessing that's what you mean and we</p> <p>13 don't have the attachment, we never got it. But I'm</p> <p>14 assuming the attached recommendation from peer</p> <p>15 review is what you were just speaking of is you</p> <p>16 would get some kind of recommendation or report</p> <p>17 from the peer review, is that correct?</p> <p>18 A We get a report from peer review.</p> <p>19 Q Okay. And this one says motion was made and</p> <p>20 seconded to send recommendation back to peer review</p> <p>21 committee for reconsideration due to the absence of</p> <p>22 documentation and time limit issues. Motion</p> <p>23 carried. What does that mean?</p> <p>24 A I'm not sure what it means in this case.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">47</p> <p>1 MR. DICK: Yeah.</p> <p>2 MR. DAYHUFF: But you're right, that doesn't look</p> <p>3 like a Nelson Mullins Bates.</p> <p>4 MR DICK: Yeah. That's not a Bates labeling from</p> <p>5 this case, so . . .</p> <p>6 THE WITNESS: Is that something that involves me, I</p> <p>7 don't know what you're talking about?</p> <p>8 MR DICK: No, no. I just don't want — because</p> <p>9 Bates number 9 would actually be part of the</p> <p>10 medical staff bylaws in this case and so I</p> <p>11 don't want the record to be confused there,</p> <p>12 but it's probably more confused now.</p> <p>13</p> <p>14 Q Okay. This, I guess, third page of Exhibit No. 5,</p> <p>15 says peer review has had four people working on</p> <p>16 these cases for eight months, again, see attached</p> <p>17 document, which we don't have. Peer review</p> <p>18 recommendation is to terminate medical staff</p> <p>19 privileges for this physician. When it says peer</p> <p>20 review has had four people working on these cases</p> <p>21 for eight months, what is that referring to?</p> <p>22 A I couldn't tell you because I didn't write those</p> <p>23 words. But what I remember is that there was a lot</p> <p>24 of discussion over many, many, many months, many</p> <p>25 months, many months, about various issues</p>
<p style="text-align: right;">46</p> <p>1 A I have no idea. At times, if we don't feel we have</p> <p>2 enough information we do ask them to go back and</p> <p>3 bring some more. And I don't know if that's what</p> <p>4 this means in this case, but I do know of being at</p> <p>5 meetings where we didn't feel there was enough</p> <p>6 information and we said you need to bring something</p> <p>7 else here.</p> <p>8 Q Okay. So sometimes you would send the review's</p> <p>9 recommendations back down to the peer review?</p> <p>10 A Uh-huh.</p> <p>11 Q Okay, all right. Flip over to page three which is,</p> <p>12 I guess, listed as ARMC0009. Just for the record</p> <p>13 so it doesn't get confused, I don't think those are</p> <p>14 the same Bates as —</p> <p>15</p> <p>16 MR. DAYHUFF: It's not my Bates.</p> <p>17 MR. DICK: Yeah. It's a different Bates numbering</p> <p>18 then.</p> <p>19 MR. DAYHUFF: It may be a Bates number that was</p> <p>20 used during the peer review hearing at the</p> <p>21 hospital.</p> <p>22 MR. DICK: Yeah.</p> <p>23 MR. DAYHUFF: It could have been a Bates used by</p> <p>24 the McNair Law Firm if they produced stuff to</p> <p>25 you before I got involved.</p>	<p style="text-align: right;">48</p> <p>1 concerning this surgeon and other cases. I mean,</p> <p>2 peer review works all the time because, again,</p> <p>3 these reports are generated all day long, so it</p> <p>4 could be this or it could be all kinds of cases. I</p> <p>5 mean, they have to meet every month over all kinds</p> <p>6 of cases. There were many discussions about this</p> <p>7 physician.</p> <p>8 Q I mean, clearly, I mean, the reason we're here</p> <p>9 today is because at some point I'm assuming you</p> <p>10 voted to terminate Dr. Muniz's privileges over —</p> <p>11 A In the 2008 proceeding if you flip here to the</p> <p>12 back, it says there was, motion was carried with a</p> <p>13 vote of six yes and one no. And if you count there</p> <p>14 are one, two, three, four, five, six, seven, eight,</p> <p>15 nine people. And I was an abstaining vote, I chose</p> <p>16 to abstain from this vote.</p> <p>17 Q Okay.</p> <p>18 A And the reason I chose to abstain from that vote is</p> <p>19 because I didn't want to be here. Because I did</p> <p>20 not want anyone to say there was any type of</p> <p>21 impropriety and I did not vote to terminate her</p> <p>22 privileges at the 2008 session.</p> <p>23 Q Okay. You know, my question though is, you know,</p> <p>24 they say they've got four people working on these</p> <p>25 cases for eight months and I'm trying to ask you</p>

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<p style="text-align: right;">49</p> <p>1 what your — I mean, obviously it was a while ago</p> <p>2 and I understand that there's —</p> <p>3 A Uh-huh.</p> <p>4 Q — it's hard to remember, but I'm trying to ask you</p> <p>5 what your recollection of the discussion involving,</p> <p>6 you know, these five cases that occurred over a</p> <p>7 couple months in 2008.</p> <p>8 A It wasn't just five cases, the five cases were some</p> <p>9 of the issues concerning peer review, there were</p> <p>10 way more than five cases. There were five that</p> <p>11 were sent out for outside review, but underneath</p> <p>12 that were many, many, many instances that were</p> <p>13 brought as reasons. From my recollection the five</p> <p>14 cases was a representative section.</p> <p>15 Q This is the October 30th letter, Exhibit No. 7.</p> <p>16</p> <p>17 (Whereupon, Letter, consisting of 2</p> <p>18 pages, was marked Exhibit No. 7 for</p> <p>19 identification.)</p> <p>20</p> <p>21 Q Have you ever seen this document, Exhibit No. 7?</p> <p>22 A I see it today.</p> <p>23 Q Okay. Can you just read the first paragraph on</p> <p>24 that page, read it out loud if you will?</p> <p>25 A On October 28th the medical executive committee,</p>	<p style="text-align: right;">51</p> <p>1 Q Okay.</p> <p>2</p> <p>3 THE WITNESS: I'm going to have to pee soon.</p> <p>4 MR. DICK: You want to take a break?</p> <p>5 MR. DAYHUFF: Let's take a break.</p> <p>6</p> <p>7 (Short Break)</p> <p>8</p> <p>9 Q All right. Before the break we were looking at</p> <p>10 Exhibit No. 5 here. Turn to the, I guess, fourth</p> <p>11 page of Exhibit No. 5.</p> <p>12 A Okay.</p> <p>13 Q Should have a ten at the bottom there.</p> <p>14 A Yes, sir.</p> <p>15 Q Okay. In the middle of the second paragraph there</p> <p>16 it says suggestions were that Dr. Muniz get</p> <p>17 additional training. There were also suggestions</p> <p>18 to find out if there were any physical problems.</p> <p>19 Is there a reason the MEC recommended to terminate</p> <p>20 her privileges immediately rather than provide some</p> <p>21 kind of remedial training or remediation?</p> <p>22 A Are you referring to this little piece of paper</p> <p>23 right there?</p> <p>24 Q Well, I'm asking on this piece of paper, there</p> <p>25 seems to be discussion that Dr. Muniz be required</p>
<p style="text-align: right;">50</p> <p>1 "the committee" considered the recommendation of</p> <p>2 the medical peer review and the recommendation from</p> <p>3 independent reviewer concerning patient charts, and</p> <p>4 they list those charts. On the basis of these</p> <p>5 reports, the committee recommended that your</p> <p>6 privileges be terminated.</p> <p>7 Q So does it indicate anywhere on there that her</p> <p>8 privileges are being terminated for something other</p> <p>9 than those five charts?</p> <p>10 A I don't know anything about this letter. I did not</p> <p>11 write this letter, so you'd have to ask the writer</p> <p>12 of this letter what her, what she meant by that.</p> <p>13 But I'm telling you, as a member of the committee,</p> <p>14 that only five cases were sent out but there were</p> <p>15 way more than five cases.</p> <p>16 Q Has it ever been indicated to Dr. Muniz that she</p> <p>17 was being terminated for more than those five</p> <p>18 cases?</p> <p>19 A I don't know what's been —</p> <p>20</p> <p>21 MR. DAYHUFF: Object to the form of the question,</p> <p>22 that misrepresents the facts in evidence on</p> <p>23 the record. You can answer.</p> <p>24</p> <p>25 A I don't know what's been represented to Dr. Muniz.</p>	<p style="text-align: right;">52</p> <p>1 to get additional training.</p> <p>2 A Uh-huh.</p> <p>3 Q Yes?</p> <p>4 A Just suggestions, not that she be required. I</p> <p>5 don't know the answer to that as to why we chose</p> <p>6 that versus something else. I can't remember all</p> <p>7 the particulars unless you give me some</p> <p>8 documentation from that. I can't remember all of</p> <p>9 the particulars.</p> <p>10 Q Okay. Well, is it normal to immediately terminate</p> <p>11 a physician without providing some kind of</p> <p>12 remediation or additional training or something</p> <p>13 along those lines?</p> <p>14</p> <p>15 MR. DAYHUFF: Object to the form of the question.</p> <p>16 You can answer. It's all right. There will</p> <p>17 be objections periodically through the</p> <p>18 testimony.</p> <p>19 THE WITNESS: And what am I supposed to do?</p> <p>20 MR. DAYHUFF: Just let me put it on the record.</p> <p>21 It's something for me to put on the record and</p> <p>22 then you can answer after I finish, okay? So</p> <p>23 go ahead. And I know that's hard to get used</p> <p>24 to, I'm sure. Do you remember his question?</p> <p>25 THE WITNESS: Am I supposed to say something</p>

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<p style="text-align: right;">53</p> <p>1 different?</p> <p>2 MR. DICK: No, no.</p> <p>3 MR. DAYHUFF: No.</p> <p>4 THE WITNESS: I know I'm supposed to say the truth</p> <p>5 but am I supposed to not answer a part, I</p> <p>6 don't understand.</p> <p>7 MR. DAYHUFF: The only time you wouldn't answer is</p> <p>8 if I instruct you not to answer.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. DAYHUFF: Otherwise I'm just preserving</p> <p>11 something on the record.</p> <p>12 MR. DICK: Otherwise, yeah, ignore him and answer</p> <p>13 it.</p> <p>14</p> <p>15 A Okay. So what was the question?</p> <p>16 Q The question was do you typically terminate a</p> <p>17 doctor's privileges without providing some kind of</p> <p>18 ability to obtain additional training or some other</p> <p>19 remedial remedy?</p> <p>20 A I wouldn't know what's typical across other</p> <p>21 hospitals, I just know what occurred in this case.</p> <p>22 And in this person with this series here, which is</p> <p>23 that there were many, many, many, many months and I</p> <p>24 know that Dr. Muniz appeared before the MEC more</p> <p>25 than one time in those months. The details of</p>	<p style="text-align: right;">55</p> <p>1 A I believe that there were issues with other</p> <p>2 physicians at the facility, the exact number of</p> <p>3 physicians I couldn't tell you. At times some</p> <p>4 people did appear before MEC and at times, I</p> <p>5 believe - and, again, I believe, this is just going</p> <p>6 way back and attempting to form an answer here -</p> <p>7 that they left, that there wasn't all of this. All</p> <p>8 of this did not occur with those physicians.</p> <p>9 Q Okay. So is it your recollection then that no</p> <p>10 other physicians were terminated by the MEC or</p> <p>11 privileges were —</p> <p>12 A My recollection is that there are physicians who</p> <p>13 had issues, there were physicians who had</p> <p>14 significant issues in which they were called on</p> <p>15 those issues and they no longer work at this</p> <p>16 hospital. That's my recollection.</p> <p>17 Q Okay.</p> <p>18 A Whether they were terminated or whether they just</p> <p>19 chose to leave, I couldn't tell you the details of</p> <p>20 that.</p> <p>21 Q Okay. Do you know if the MEC recommended the</p> <p>22 termination of any of those physicians?</p> <p>23 A I do not recall any of that, because there's no</p> <p>24 paperwork in front of me.</p> <p>25 Q Okay. Well, obviously, I mean, terminating a</p>
<p style="text-align: right;">54</p> <p>1 every single discussion, I couldn't tell you and</p> <p>2 the details of what this person was offered, I</p> <p>3 couldn't tell you. But in this proceeding I</p> <p>4 believe the end result was that, what occurred in</p> <p>5 between that, I couldn't tell you.</p> <p>6 Q And when I say typical, I'm not referring to other</p> <p>7 hospitals, I'm saying in the four years that you</p> <p>8 were on MEC —</p> <p>9 A Uh-huh.</p> <p>10 Q — would that have been typical to immediately</p> <p>11 terminate a physician?</p> <p>12 A This hospital doesn't have a lot, I mean, a whole</p> <p>13 bunch of physicians that have a whole bunch of</p> <p>14 problems that would come to that level.</p> <p>15 Q Okay. In the four years that you were on MEC, did</p> <p>16 you all ever terminate any other physicians?</p> <p>17</p> <p>18 MR. DAYHUFF: Let me caution you. He's asking you</p> <p>19 a question but —</p> <p>20 MR. DICK: Don't say who it would be or any</p> <p>21 details.</p> <p>22 MR. DAYHUFF: Any specialty or anything that would</p> <p>23 identify.</p> <p>24 THE WITNESS: Okay.</p> <p>25</p>	<p style="text-align: right;">56</p> <p>1 physicians's privileges is a fairly significant</p> <p>2 event in a physician's career and even at a</p> <p>3 hospital, correct?</p> <p>4 A Oh, absolutely.</p> <p>5 Q Okay. So, I mean, I'm just asking if you, I mean,</p> <p>6 I would assume that you would remember terminating,</p> <p>7 you know, somebody's privileges because that's a</p> <p>8 pretty heavy, I guess, sanction to impose. What</p> <p>9 you're saying is you don't remember if the MEC</p> <p>10 recommended to terminate?</p> <p>11 A I can't remember whether or not any other physician</p> <p>12 was necessarily, I know that there were many who</p> <p>13 had problems and they were, had issues that they</p> <p>14 had to discuss and they are no longer at this</p> <p>15 facility.</p> <p>16 Q Okay. Do you know if any of those physicians were</p> <p>17 offered to seek training or proctoring or anything</p> <p>18 of the like that would allow them to remain at the</p> <p>19 hospital?</p> <p>20 A In my four years on the MEC, I cannot remember the</p> <p>21 exact details of why those physicians were, are not</p> <p>22 here anymore. But you'd have to ask people who were</p> <p>23 here longer if there was any other cases, you know,</p> <p>24 since they've been here, you'd have to ask them.</p> <p>25 Q Okay. And, again, your answer may be that you</p>

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<p style="text-align: right;">57</p> <p>1 don't know but I'm going to ask it anyway, aside</p> <p>2 from the four years that you were on MEC, do you</p> <p>3 know of any physician that was, whose privileges</p> <p>4 were terminated while in your stay at ARMC from</p> <p>5 2002 until the present?</p> <p>6 A I don't know the answer to why they're not here any</p> <p>7 more. I know that there have been physicians with</p> <p>8 problems and those physicians no longer work here.</p> <p>9 Q Okay. But I was just asking you --</p> <p>10 A The details, I don't know.</p> <p>11 Q -- I was expanding the time period from when you've</p> <p>12 been here to --</p> <p>13 A The details of that I do not know. I know that</p> <p>14 there have been people with problems and the</p> <p>15 details of those problems and the details of why</p> <p>16 they're not here any more, I could not tell you.</p> <p>17 Q Okay. Flipping to, I guess, looks like the last</p> <p>18 page of Exhibit No. 5, I know you said you did not</p> <p>19 participate in this vote, is that correct?</p> <p>20 A Yes, sir.</p> <p>21 Q Did you participate in the deliberations and</p> <p>22 discussions regarding Dr. Muniz?</p> <p>23 A I participated in discussion, yes.</p> <p>24 Q Okay. What was your recommendation regarding those</p> <p>25 discussions?</p>	<p style="text-align: right;">59</p> <p>1 A I don't know where that came from, but I do know</p> <p>2 that being on the committee and, again, receiving</p> <p>3 information from the peer review committee up, that</p> <p>4 there was a lot of discussion month after month</p> <p>5 after month. We hear about all of the significant</p> <p>6 cases from the peer review committee, whether it</p> <p>7 involves Dr. Muniz or any other practitioner that's</p> <p>8 here. And, you know, if you see someone one time,</p> <p>9 okay, twice, okay, but it was almost every month in</p> <p>10 which there was some discussion.</p> <p>11 Q And were these different cases they were discussing</p> <p>12 or the same ones?</p> <p>13 A Sometimes the same, sometimes different.</p> <p>14 Q Do you know why they only sent out those five</p> <p>15 cases, if there were so many others?</p> <p>16 A I believe that they chose five because you -- I</p> <p>17 remember someone saying how can you send out that</p> <p>18 many. You just send this number and they sent that</p> <p>19 number.</p> <p>20 Q So did they pick the worse ones then?</p> <p>21 A No, I don't believe. I don't know how they picked</p> <p>22 the five. I wasn't part of picking the five.</p> <p>23 Q You think there were cases worse than the five that</p> <p>24 they recommended to terminate her privileges on?</p> <p>25 A I know there were a lot of cases.</p>
<p style="text-align: right;">58</p> <p>1 A They weren't recommendations, they asked me what my</p> <p>2 impression of certain things were, and my</p> <p>3 impressions was of great concern for patient</p> <p>4 safety.</p> <p>5 Q Did you believe that Dr. Muniz should be</p> <p>6 terminated?</p> <p>7 A I did not vote in that regard. I had great --</p> <p>8 Q I know you didn't vote.</p> <p>9 A -- concern for patient safety.</p> <p>10 Q Okay. My question is did you believe that she</p> <p>11 should be terminated?</p> <p>12 A That question wasn't asked of me that day.</p> <p>13 Q But I'm asking you the question now.</p> <p>14 A It was a free vote.</p> <p>15 Q Did you believe that she should be terminated?</p> <p>16 A I believe Dr. Muniz has a serious problem, yes.</p> <p>17 Q So, again, the question is did you believe she</p> <p>18 should be terminated?</p> <p>19 A Yes, I did.</p> <p>20 Q Okay. In the second paragraph it says there was</p> <p>21 much discussion. Members agreed there was a</p> <p>22 pattern of problems. Dr. Muniz has a complication</p> <p>23 rate much higher than her peers. Do you know where</p> <p>24 the statement Dr. Muniz has a complication rate</p> <p>25 much higher than her peers came from?</p>	<p style="text-align: right;">60</p> <p>1 Q Okay.</p> <p>2 A More than I felt --</p> <p>3 Q I mean, being on the MEC would it not be reasonable</p> <p>4 to include the cases that were worse than these</p> <p>5 five that are listed here?</p> <p>6 A I don't know how they chose the five. I didn't</p> <p>7 choose the five, I didn't choose the five. The</p> <p>8 five were chosen and were sent.</p> <p>9 Q Okay. Are you aware of the outcome of that first</p> <p>10 peer review hearing with Dr. Muniz?</p> <p>11 A You'd have to show me the paperwork for me to be</p> <p>12 precise or even somewhat precise. I know there was</p> <p>13 some discussion about psychiatry.</p> <p>14 Q Okay.</p> <p>15 A I know there was some discussion about that.</p> <p>16 Q Okay. After that first peer review hearing, was</p> <p>17 there anymore discussion about Dr. Muniz?</p> <p>18 A Would you repeat that?</p> <p>19 Q After the first peer review hearing and --</p> <p>20 A Are you talking about --</p> <p>21 Q Let's say --</p> <p>22 A -- peer review hearing, are you talking about after</p> <p>23 it left the MEC and then she had the panel thing?</p> <p>24 Q Yes. I guess we can call, yeah, the peer review</p> <p>25 panel we can call that.</p>

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<p style="text-align: right;">61</p> <p>1 A But isn't that a different set of people?</p> <p>2 Q Yeah.</p> <p>3 A You go from the peer review committee to MEC, to</p> <p>4 the board. And then it goes, if the physician</p> <p>5 chooses, then there's a fair hearing, are you</p> <p>6 speaking of that fair hearing?</p> <p>7 Q Right. After the first fair hearing which was on</p> <p>8 the five cases that you and the MEC had recommended</p> <p>9 her to be terminated on.</p> <p>10 A Right, uh-huh.</p> <p>11 Q Was there any further discussion by the MEC</p> <p>12 regarding Dr. Muniz, after that time?</p> <p>13 A Only what was brought to us.</p> <p>14 Q Okay. And, I guess, I'll narrow it down, you know</p> <p>15 that she was, again, I guess, precautionarily</p> <p>16 suspended for an incident in 2010, is that right?</p> <p>17 A Right, uh-huh.</p> <p>18 Q Was there, between the time when that first peer</p> <p>19 review panel hearing and the precautionary</p> <p>20 suspension, was there any discussion about Dr.</p> <p>21 Muniz in between that time?</p> <p>22 A I don't -- I couldn't tell you. If it's not on the</p> <p>23 minutes, I couldn't tell you.</p> <p>24 Q Okay.</p> <p>25 A I couldn't tell you.</p>	<p style="text-align: right;">63</p> <p>1 attempted to call Dr. Boone who was the peri-natal</p> <p>2 section chair at the time, and they couldn't get</p> <p>3 him. And so I was at home at the time when I got</p> <p>4 the phone call. And I came in and reviewed what</p> <p>5 information they gave me.</p> <p>6 Q Okay. And, I guess, I can go back. Let's mark</p> <p>7 Exhibit No. 9.</p> <p>8</p> <p>9 (Whereupon, Scoring Sheet, consisting of</p> <p>10 2 pages, was marked Exhibit No. 9 for</p> <p>11 identification.)</p> <p>12</p> <p>13 Q Do you recognize Exhibit No. 9?</p> <p>14 A Yes, sir.</p> <p>15 Q Okay. And what is Exhibit No. 9?</p> <p>16 A Exhibit No. 9 is the scoring standard that they</p> <p>17 gave me to use and some notes that I took</p> <p>18 concerning the case.</p> <p>19 Q Okay. Is that your signature at the bottom of the</p> <p>20 first page there?</p> <p>21 A Yes.</p> <p>22 Q And at the bottom of the second page?</p> <p>23 A Yes.</p> <p>24 Q Okay. You were just saying that Terri Ergle called</p> <p>25 you and asked you to review a chart, is this, I</p>
<p style="text-align: right;">62</p> <p>1 Q All right. This is the February 25th letter,</p> <p>2 Exhibit No.8.</p> <p>3</p> <p>4 MR. DAYHUFF: Okay.</p> <p>5</p> <p>6 (Whereupon, Letter, consisting of 2</p> <p>7 pages, was marked Exhibit No. 8 for</p> <p>8 identification.)</p> <p>9</p> <p>10 Q Do you recognize Exhibit No. 8?</p> <p>11 A Yes.</p> <p>12 Q Okay. And what is Exhibit No. 8?</p> <p>13 A It is a letter informing Dr. Muniz of the</p> <p>14 precautionary suspension.</p> <p>15 Q Okay. And flipping over to the second page there,</p> <p>16 is that your signature there?</p> <p>17 A Yes.</p> <p>18 Q Okay. So what was your involvement in this</p> <p>19 precautionary suspension?</p> <p>20 A I received a phone call from Terri Ergle, there was</p> <p>21 a case that had been brought and they wanted me to</p> <p>22 immediately review what they had so far from the</p> <p>23 medical record --</p> <p>24 Q Okay.</p> <p>25 A -- as the chairman of surgery. I believe they</p>	<p style="text-align: right;">64</p> <p>1 guess, your review of that chart?</p> <p>2 A Uh-huh.</p> <p>3 Q Okay. And you've circled care varied from best</p> <p>4 practice did harm to patient, catastrophic adverse</p> <p>5 outcome. And then you say other recommendations,</p> <p>6 suspend summarily.</p> <p>7 A Uh-huh.</p> <p>8 Q So at that point you were recommending that she be</p> <p>9 suspended summarily?</p> <p>10 A Uh-huh.</p> <p>11 Q Okay. And what was your reasoning for that?</p> <p>12 A I knew that Dr. Muniz was under 100 percent review</p> <p>13 and that this was a significantly negative outcome</p> <p>14 that a fetus, a baby had passed away and because of</p> <p>15 that I felt it was prudent to stop. There were</p> <p>16 some issues in the documentation that concerned me</p> <p>17 and I felt we should just stop and she could</p> <p>18 present her case further after stopping, no longer</p> <p>19 taking care of the patient.</p> <p>20 Q Okay. For this report what did you review?</p> <p>21 A I reviewed, again, it's not in front of me, but I</p> <p>22 believe I reviewed a fetal heart rate tracing, an</p> <p>23 operative report, laboratory data, nursing notes</p> <p>24 that were available at the time. I'm not sure if</p> <p>25 the pathology report was available at that time,</p>

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<p style="text-align: right;">65</p> <p>1 but the operative report was available, nursing</p> <p>2 notes, progress notes, nursing notes were all</p> <p>3 available.</p> <p>4 Q Okay. So all written material, you didn't speak</p> <p>5 with anyone?</p> <p>6 A No.</p> <p>7 Q Okay.</p> <p>8 A I was brought, I went straight upstairs to</p> <p>9 physician services and the stack of papers was</p> <p>10 given to me.</p> <p>11 Q Okay. Were you on the floor, at the time of this</p> <p>12 incident?</p> <p>13 A I was all over the hospital that day, it was a</p> <p>14 surgery day for me. And I also had a high-risk</p> <p>15 patient on labor and delivery that day, a vaginal</p> <p>16 birth after caesarian in which the policy is that</p> <p>17 we have to be around for that.</p> <p>18 Q Okay. Were you aware that this incident was going</p> <p>19 on, when you were on the floor?</p> <p>20 A I did not know the details of the incident. I knew</p> <p>21 that a patient, that patients were on labor and</p> <p>22 delivery. My patient was not the only patient on</p> <p>23 labor and delivery. I was looking at a record on</p> <p>24 the floor and patients were walking up as I was</p> <p>25 looking at my own records.</p>	<p style="text-align: right;">67</p> <p>1 A I was in a VBAC room. I have to be with the VBAC</p> <p>2 that was having trouble.</p> <p>3 Q Okay. So the answer to my question is no then?</p> <p>4 A The answer to the question was that no one asked me</p> <p>5 for any help.</p> <p>6 Q Okay.</p> <p>7 A And I was in a VBAC room at the time, so I don't</p> <p>8 know how they could ask me for help.</p> <p>9 Q Well, I mean, when you see a heart rate tracing</p> <p>10 like that, do you ever offer your support or . . .</p> <p>11 A It depends on what I have going on at the time. At</p> <p>12 the time, like I said, it was a surgery day, I had</p> <p>13 a VBAC there. If I was asked, would I have found a</p> <p>14 way, absolutely. But without knowing the details,</p> <p>15 I don't just run up to every strip on the floor and</p> <p>16 say hey, do you need help with that, especially</p> <p>17 when there's people around to manage that. I have</p> <p>18 to manage my problem.</p> <p>19 Q So did any of the nurses ever talk to you about</p> <p>20 this strip?</p> <p>21 A No, no. Other than me saying that's a pretty large</p> <p>22 decel, do you want to see if anyone needs some</p> <p>23 help, that was it.</p> <p>24 Q Okay.</p> <p>25 A I saw when patients walked up to the desk and just</p>
<p style="text-align: right;">66</p> <p>1 Q Okay. Did you ever see, while you were on the</p> <p>2 floor, did you ever see the fetal heart tracing</p> <p>3 strip or monitor for this patient?</p> <p>4 A I saw that and a whole bunch of others.</p> <p>5 Q Okay.</p> <p>6 A Because it's on a little screen, you know.</p> <p>7 Q Like at the nurse's station?</p> <p>8 A There's screens and I was in, most of the time I</p> <p>9 was actually physically in my VBAC's room, because</p> <p>10 she was having trouble. She was kind of hung up</p> <p>11 and the baby wasn't liking it, so I was in the, in</p> <p>12 my patient room for a lot of what was going on that</p> <p>13 day.</p> <p>14 Q Okay.</p> <p>15 A And back and forth to surgery.</p> <p>16 Q Okay. Did you ever see the deceleration on this</p> <p>17 patient that was on —</p> <p>18 A I saw a deceleration in one of the rooms, I</p> <p>19 remember. And I said to my nurse that was present,</p> <p>20 I can handle what's happening here in our patient</p> <p>21 room, I don't know if maybe you want to see if they</p> <p>22 need some help. And that was the sum total of any</p> <p>23 discussion about any decelerations on the strip.</p> <p>24 Q Okay. So you didn't ever go check it out or offer</p> <p>25 your help or . . .</p>	<p style="text-align: right;">68</p> <p>1 from the fair hearing, I know what the lady looked</p> <p>2 like.</p> <p>3 Q You say from the fair hearing, what do you mean?</p> <p>4 A Uh-huh. The mom —</p> <p>5 Q Yeah.</p> <p>6 A — was at the fair hearing and I recognized her</p> <p>7 walking up to the desk with another lady.</p> <p>8 Q Okay.</p> <p>9 A I recognized the mother. And I had seen that face</p> <p>10 before when I was sitting at the desk and a whole</p> <p>11 bunch of patients were coming up. And there just</p> <p>12 wasn't enough room for me, so I picked up my things</p> <p>13 and went around the corner.</p> <p>14 Q Okay. As far as seeing that deceleration on the</p> <p>15 monitor, did you ever, I mean, were you ever privy</p> <p>16 to any of the other activities or actions that were</p> <p>17 occurring in that patient's care?</p> <p>18 A No, other than the record.</p> <p>19 Q So this summary suspension was based on the fact</p> <p>20 that Dr. Muniz was under 100 percent review and</p> <p>21 there was a catastrophic outcome, I guess?</p> <p>22 A Yes, sir.</p> <p>23 Q So you just recommended out of, I guess, caution</p> <p>24 that she be summarily suspended?</p> <p>25 A I was concerned about patient safety because this</p>

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<p style="text-align: right;">69</p> <p>1 was a big, negative outcome.</p> <p>2 Q Okay. Have you ever had a fetal death in your time</p> <p>3 here?</p> <p>4 A No. Not like this, no.</p> <p>5 Q Well, I mean, at all, have you ever had a fetal</p> <p>6 death?</p> <p>7 A No.</p> <p>8 Q Have there been fetal deaths at this hospital, in</p> <p>9 your time here?</p> <p>10 A Not that I know of.</p> <p>11 Q So from 2002 until the present, you're unaware of</p> <p>12 any fetal deaths that have occurred at ARMC?</p> <p>13 A I know of fetuses that were passed away before</p> <p>14 ladies got here. I know of patients coming in</p> <p>15 exsanguinating in the floor, literally, like before</p> <p>16 they had an IV everything was pouring out onto the</p> <p>17 floor. I mean, not that I can recall at this</p> <p>18 point. I mean, in my entire career have I had</p> <p>19 someone show up with fetal heart tones like that, I</p> <p>20 mean, I couldn't answer that at this point. How</p> <p>21 about that, that's the answer.</p> <p>22 Q Well, I mean, a fetal death, like you said, is a</p> <p>23 fairly catastrophic event.</p> <p>24 A Uh-huh.</p> <p>25 Q You don't know, you can't remember an instance</p>	<p style="text-align: right;">71</p> <p>1 time in which there was hours and hours on the</p> <p>2 monitor and then you take them to surgery and the</p> <p>3 baby passed away, to my knowledge.</p> <p>4 Q Well, I mean, the question is has there been a time</p> <p>5 when a patient has presented and there has been or</p> <p>6 at least appeared to be a fetal heart tone and the</p> <p>7 baby has either been born stillborn or died</p> <p>8 immediately after birth?</p> <p>9 A There have been times where the patient was taken</p> <p>10 immediately to surgery and the baby has passed</p> <p>11 away, but there has been no time in which there</p> <p>12 were hours in which the patient was on the monitor</p> <p>13 and the fetus was on the monitor that the baby</p> <p>14 passed away that I am aware of.</p> <p>15 Q Okay.</p> <p>16 A That's my answer.</p> <p>17 Q In the instances when that has occurred, when</p> <p>18 there's been a fetal heart tone and the baby has</p> <p>19 expired, have you - if it's happened to you</p> <p>20 personally - been summarily suspended for that or</p> <p>21 has the, I guess, the physician that is handling</p> <p>22 that case been summarily suspended for it?</p> <p>23 A As far as I know, all fetal deaths are reviewed by</p> <p>24 peer review and the peer review process determines</p> <p>25 whether or not they feel the patient has been</p>
<p style="text-align: right;">70</p> <p>1 where --</p> <p>2 A I think there have been fetal deaths, but I don't</p> <p>3 believe there was two hours in between when the</p> <p>4 person presented to the floor and the fetal death,</p> <p>5 that I'm aware of. I think there have been fetal</p> <p>6 deaths where the person was taken immediately for</p> <p>7 delivery and the baby passed away, they did</p> <p>8 everything they could. But I don't know of any in</p> <p>9 which there was such a significant time delay</p> <p>10 between presentation and infant death.</p> <p>11 Q But that's never occurred to you personally when a</p> <p>12 baby has showed up, I guess, with a fetal heart</p> <p>13 tone and then has not made it?</p> <p>14 A Not with two hours of time, no.</p> <p>15 Q Well, I'm not asking with two hours of time, I'm</p> <p>16 saying has a baby shown up and presented with a</p> <p>17 fetal heart tone and then --</p> <p>18 A Exsanguinated in the nursery or something like</p> <p>19 that?</p> <p>20 Q Or expired, I guess, yeah.</p> <p>21 A I guess I'm not clear on your form of questioning,</p> <p>22 I'll be honest with you. Because there are times</p> <p>23 where someone comes in and you think you hear a</p> <p>24 fetal heart tone and you take them to surgery and</p> <p>25 the baby's already passed away. There has been no</p>	<p style="text-align: right;">72</p> <p>1 treated in what we feel is their best interests,</p> <p>2 they determine that. So as far as I know.</p> <p>3 Q Okay.</p> <p>4 A As far as I know, as I've heard, it is -- I have</p> <p>5 never heard of a case in which someone has been on</p> <p>6 the monitor for this amount of time and the baby</p> <p>7 passed away. I have never heard of one.</p> <p>8 Q So then why in this case -- so you say that the</p> <p>9 fetal deaths are reviewed by peer review, why in</p> <p>10 this case was it reviewed by you?</p> <p>11 A I believe it was reviewed by me, according to all</p> <p>12 this paperwork, it was reviewed by a physician</p> <p>13 member of peer review at the time. I believe the</p> <p>14 chairman of peer review was aware of the case and I</p> <p>15 believe a physician member of peer review also</p> <p>16 reviewed the case, and then it came to me. It did</p> <p>17 not come to me primarily.</p> <p>18 Q Okay. Have any of these other cases come to you</p> <p>19 before though?</p> <p>20 A In my tenure?</p> <p>21 Q Yeah.</p> <p>22 A There were none. In my tenure, there were none</p> <p>23 that came to me.</p> <p>24 Q How about has any peer review, I guess, question</p> <p>25 come to you?</p>

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<p style="text-align: right;">73</p> <p>1 MR. DAYHUFF: Object to the form of the question.</p> <p>2</p> <p>3 A I don't know what you're talking about.</p> <p>4 Q Well, you say you're not on peer review.</p> <p>5 A I'm not on peer review.</p> <p>6 Q And so my question is have you reviewed a chart?</p> <p>7 A In my four years as the surgical chair this is the</p> <p>8 case, this case right here came to me through a</p> <p>9 direct phone call. This is the only one.</p> <p>10 Q Okay.</p> <p>11 A All the rest occurred through the medical executive</p> <p>12 committee.</p> <p>13 Q Do you know why, in this case, they chose to go</p> <p>14 directly to you?</p> <p>15 A They did not go directly to me. I believe that</p> <p>16 they had a peer review person who reviewed the</p> <p>17 chart, and the chairman reviewed the chart, and</p> <p>18 they asked for a second opinion.</p> <p>19 Q Okay. Did you have discussions with, I guess,</p> <p>20 let's see Exhibit No. 8 is signed by you, Dr.</p> <p>21 DiBona, and Carlos Milanes, did you have</p> <p>22 discussions with them about the summary suspension</p> <p>23 before this letter was issued?</p> <p>24 A Other than what was discussed in medical executive</p> <p>25 committee, no. We did not discuss Dr. Muniz</p>	<p style="text-align: right;">75</p> <p>1 Q So before signing this letter, Exhibit No. 8, you</p> <p>2 didn't have any discussions with Dr. DiBona or</p> <p>3 Carlos Milanes or anyone else regarding your</p> <p>4 recommendation to summarily suspend her?</p> <p>5 A I didn't have any discussions with them. I said I</p> <p>6 felt that she should be summarily suspended, this</p> <p>7 was given to Terri Ergle, and this is the letter,</p> <p>8 as far as I know, that was generated in response to</p> <p>9 that.</p> <p>10 Q Okay.</p> <p>11 A As far as I know you can't suspend somebody without</p> <p>12 notifying them.</p> <p>13 Q So then did, did somebody just present you with</p> <p>14 this letter and you signed it, is that how that</p> <p>15 occurred?</p> <p>16 A I did not type the letter. The letter was typed by</p> <p>17 the staff at the hospital, whoever types these</p> <p>18 letters.</p> <p>19 Q Okay. And then you just signed it?</p> <p>20 A I put my signature on the letter, yes.</p> <p>21 Q Okay. But you didn't have any discussions with</p> <p>22 people before that, regarding your recommendation</p> <p>23 to summarily suspend her?</p> <p>24 A I received a chart, I reviewed the chart, I gave my</p> <p>25 recommendation, and then the letter was generated</p>
<p style="text-align: right;">74</p> <p>1 outside of a peer review setting, medical peer</p> <p>2 review, medical executive committee.</p> <p>3 Q Well, so did MEC discuss this issue before she was</p> <p>4 summarily suspended?</p> <p>5 A I'm not sure when this letter went out. I reviewed</p> <p>6 the case after it was reviewed by others, and my</p> <p>7 understanding of this is that once this is issued,</p> <p>8 the physician has to be notified that this action</p> <p>9 was taken. And this letter is in response to the</p> <p>10 action that was taken through the reviews that</p> <p>11 occurred prior to that.</p> <p>12 Q Okay. So you reviewed the chart and issued a</p> <p>13 report in Exhibit No. 9?</p> <p>14 A Right.</p> <p>15 Q Who made the decision to summarily suspend Dr.</p> <p>16 Muniz?</p> <p>17 A I know what my recommendation was, I don't know</p> <p>18 what the other people's recommendation was who</p> <p>19 reviewed the chart at this time. Mine was I felt</p> <p>20 we needed to precautionarily suspend her in the</p> <p>21 interest of patient safety.</p> <p>22 Q Okay. And you didn't have any other discussions</p> <p>23 with people about what their recommendations were?</p> <p>24 A No, no. I was not privy to anyone else's</p> <p>25 recommendations.</p>	<p style="text-align: right;">76</p> <p>1 after that. What other discussions occurred that</p> <p>2 did not involve me, I do not know.</p> <p>3 Q Okay. After the summary suspension was issued, did</p> <p>4 you have discussions with anyone regarding this</p> <p>5 patient and this incident?</p> <p>6 A There were meetings afterwards involving a special</p> <p>7 session of the medical executive committee to</p> <p>8 discuss this suspension.</p> <p>9 Q Okay. This will be Exhibit No. 10.</p> <p>10</p> <p>11 (Whereupon, MEC Minutes, consisting of 2</p> <p>12 pages, was marked Exhibit No. 10 for</p> <p>13 identification.)</p> <p>14</p> <p>15 Q Do you recognize Exhibit No. 10?</p> <p>16 A It appears to be minutes from a special meeting.</p> <p>17 Q Okay. Is that the special meeting that you were</p> <p>18 just referring to?</p> <p>19 A Yes, sir.</p> <p>20 Q Okay. What took place in this meeting?</p> <p>21 A Dr. DiBona called it to order, Dr. DiBona described</p> <p>22 that there was a suspension placed secondary to a</p> <p>23 catastrophic outcome and that the, that's the</p> <p>24 reason for the precautionary suspension. The</p> <p>25 record was available for all members of the</p>

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<p style="text-align: right;">77</p> <p>1 committee to review, and the report was that it was</p> <p>2 sent to an outside reviewer. I believe it had</p> <p>3 already been sent out, I remember people saying</p> <p>4 have you sent this case out for people outside the</p> <p>5 hospital to review.</p> <p>6 Q Okay. Prior to this meeting, had you spoken with</p> <p>7 anybody about this incident, other than your review</p> <p>8 of the chart?</p> <p>9 A Other than the people in this committee, this is</p> <p>10 the committee right here.</p> <p>11 Q Okay. But prior to this meeting is my question?</p> <p>12 A The people who handed me the chart, Terri Ergle and</p> <p>13 all them, I said is this all the information. I</p> <p>14 mean, I don't know what you mean by discuss the</p> <p>15 case. Do I have enough information or is this all</p> <p>16 that you have, I did ask those questions.</p> <p>17 Q Okay. But aside from that, that was the extent of</p> <p>18 your discussions with anybody regarding --</p> <p>19 A That's it.</p> <p>20 Q Okay. On the, I guess, third paragraph here it</p> <p>21 says it was reported that the medical record has</p> <p>22 been sent out to an outsider reviewer but the</p> <p>23 results are not yet back. Members suggested an</p> <p>24 additional outside review also be obtained. So at</p> <p>25 this special meeting the results of the special or</p>	<p style="text-align: right;">79</p> <p>1 MEC or anybody on the MEC met with Dr. Muniz about</p> <p>2 this incident?</p> <p>3 A I don't believe Dr. Muniz was at this meeting. I'm</p> <p>4 not sure, but she was at another meeting.</p> <p>5 Q Okay, right. I'll hand you that. Look at that.</p> <p>6 A She came to another meeting which she presented a</p> <p>7 flow sheet of her thoughts of the day.</p> <p>8</p> <p>9 (Whereupon, MEC Minutes, consisting of 1</p> <p>10 page, was marked Exhibit No. 11 for</p> <p>11 identification.)</p> <p>12</p> <p>13 Q Okay. Do you recognize Exhibit No. 11?</p> <p>14 A It is another special meeting called a few days</p> <p>15 later. And Dr. Muniz came to another, came to the</p> <p>16 meeting and presented a piece of paper, a handout</p> <p>17 that discussed a timeline as well as her thought</p> <p>18 process involving the patient.</p> <p>19 Q Okay. So, I guess, going back then to Exhibit No.</p> <p>20 10, at the time of that special meeting in Exhibit</p> <p>21 No. 10, had the medical executive committee talked</p> <p>22 with or heard from Dr. Muniz?</p> <p>23 A Not at that time, no.</p> <p>24 Q And during the meeting on March 9th in Exhibit No.</p> <p>25 11 here, Dr. Muniz, I guess, presented her case at</p>
<p style="text-align: right;">78</p> <p>1 the results of the outside reviewers had not been</p> <p>2 received yet, is that correct?</p> <p>3 A No. As far as I know, no. According to this piece</p> <p>4 of paper they had not been received.</p> <p>5 Q So they had not been received yet. I'm sorry, it's</p> <p>6 kind of a confusing question, I'm sorry. Let me</p> <p>7 reask it. At this special meeting, were the</p> <p>8 results from the outsider reviewer received at that</p> <p>9 time?</p> <p>10 A No.</p> <p>11 Q Okay. Then the next paragraph down it says motion</p> <p>12 was made and seconded to terminate Dr. Muniz's</p> <p>13 medical staff privileges. Why did you all decide</p> <p>14 to terminate her privileges before you even</p> <p>15 received the outside reviewer's reports?</p> <p>16 A The members of the medical executive committee were</p> <p>17 aware that Dr. Muniz had had previous problems and</p> <p>18 concerns of patient safety. The committee was</p> <p>19 aware that Dr. Muniz was under 100 percent review.</p> <p>20 The committee was then aware that the infant had</p> <p>21 passed away, and therefore the committee felt,</p> <p>22 again, in the interest of patient safety that they</p> <p>23 should continue the suspension of privileges until</p> <p>24 the review came back.</p> <p>25 Q At this special meeting had you or anybody, or the</p>	<p style="text-align: right;">80</p> <p>1 that meeting?</p> <p>2 A She spoke, yes.</p> <p>3 Q Okay. And what were the, I guess, discussions of</p> <p>4 the MEC at that time?</p> <p>5 A Dr. Muniz was given a time period to speak. I</p> <p>6 believe the time was limited because we had been in</p> <p>7 meetings with her and other physicians who talked</p> <p>8 for a very, very, very long time, and so she was</p> <p>9 given a time limit to speak. She presented a</p> <p>10 handout, the handout, she reviewed that in detail.</p> <p>11 Discussions went back and forth with some questions</p> <p>12 with Dr. Muniz, who asked what I couldn't tell you.</p> <p>13 And then Dr. Muniz was allowed to leave. The</p> <p>14 document was discussed, there were concerns, again,</p> <p>15 and we decided to continue with the termination.</p> <p>16 Q Okay. And, again, it says the outside reviews are</p> <p>17 not back yet, so at the time of the meeting on</p> <p>18 March 9th this Exhibit No. 11, had the medical</p> <p>19 executive committee received outside reviews yet?</p> <p>20 A We had not received them which is why we continued</p> <p>21 to keep her on suspension until we knew the results</p> <p>22 of that.</p> <p>23</p> <p>24 (Whereupon, AllMed Peer Review,</p> <p>25 consisting of 5 pages, was marked Exhibit</p>

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<p style="text-align: right;">81</p> <p>1 No. 12 for identification.)</p> <p>2</p> <p>3 Q Okay. Do you recognize Exhibit No. 12?</p> <p>4 A It is a review, who the review is by I don't know.</p> <p>5 But it is a review.</p> <p>6 Q I guess is this one of the outside reviews that the</p> <p>7 MEC obtained regarding this incident?</p> <p>8 A Skip Freedman.</p> <p>9 Q I believe Skip Freedman is the medical director. I</p> <p>10 think the review is actually done by Dr. Minassian.</p> <p>11 The way AllMed works is the medical director</p> <p>12 actually signs the reviews.</p> <p>13 A Oh, okay. So Dr. Minassian's name isn't actually</p> <p>14 on here?</p> <p>15 Q No.</p> <p>16 A Okay.</p> <p>17 Q But does this appear to be one of the outside</p> <p>18 reviews that you all obtained or that the MEC</p> <p>19 obtained in relation to this incident?</p> <p>20 A I know there were two, and who wrote them, I</p> <p>21 couldn't tell you who wrote them. But if you say</p> <p>22 it is.</p> <p>23 Q Okay. Look at page four if you would.</p> <p>24 A Four. Okay. I'm on four.</p> <p>25 Q And it says, there's a question there in the second</p>	<p style="text-align: right;">83</p> <p>1 patient was here for two hours. It says yes, in</p> <p>2 part, there is evidence of delay in decision making</p> <p>3 for appropriate treatment. That's what it says,</p> <p>4 and there's a whole paragraph, not just one of the</p> <p>5 paragraphs, there's more than one paragraph there.</p> <p>6 It says here, however, according to the nurse's</p> <p>7 notes the obstetrician initially intended to</p> <p>8 transfer the patient for NICU reasons. After</p> <p>9 discussion with pediatrician and, again, according</p> <p>10 to the nurse's note the obstetrician decided to</p> <p>11 perform cesarian section. That was all of those</p> <p>12 discussions there but there were other issues that</p> <p>13 caused delay.</p> <p>14 Q And this episode caused, took about 30 minutes, so</p> <p>15 ...</p> <p>16 A There was that --</p> <p>17 Q Is there anywhere --</p> <p>18 A -- plus ten, plus another hour. That's what this</p> <p>19 reviewer said. But from the time the patient</p> <p>20 arrived on labor and delivery to delivery of the</p> <p>21 infant was over two hours.</p> <p>22 Q Right. I understand that the patient was on labor</p> <p>23 and delivery for two hours, but the reviewer here</p> <p>24 says that the obstetrician arrived appropriately</p> <p>25 ten, within ten to 11 minutes within being called</p>
<p style="text-align: right;">82</p> <p>1 paragraph that says was the standard of care</p> <p>2 appropriate. And the answer is yes, the standard</p> <p>3 of care was appropriate. Do you know why Dr.</p> <p>4 Muniz's termination was continued even though the</p> <p>5 outsider reviewer said that the standard of care</p> <p>6 was met?</p> <p>7 A It was continued because there were some qualifiers</p> <p>8 after the yes and the review is also made in a</p> <p>9 vacuum and the reviewer is not privy to any</p> <p>10 previous issues that the physician has had, whereas</p> <p>11 the medical executive committee is. It was yes and</p> <p>12 there were a bunch of conditions after that.</p> <p>13 Q What were the conditions?</p> <p>14 A Mainly that there was a delay in treatment. And</p> <p>15 one of the things that was of grave concern to the</p> <p>16 medical executive committee as you show in Exhibit</p> <p>17 No. 11 was delay in treatment was the real dilemma</p> <p>18 that the medical executive committee had, and it</p> <p>19 says there was delay.</p> <p>20 Q Looking at the last paragraph there, it says that</p> <p>21 this episode took about 30 minutes, do you see</p> <p>22 that?</p> <p>23 A What took 30 minutes?</p> <p>24 Q I'm just reading from the fourth paragraph there.</p> <p>25 A There was one part that took 30 minutes but the</p>	<p style="text-align: right;">84</p> <p>1 to labor and delivery, Terbutaline was</p> <p>2 administered. Aside from this 30 minute episode,</p> <p>3 does this reviewer indicate anywhere that there was</p> <p>4 a delay beyond 30 minutes? And you can read the</p> <p>5 whole thing if you want.</p> <p>6 A I believe they said there was a delay in part.</p> <p>7 They said there was a 30 minute discussion period.</p> <p>8 What the reviewer is referring to as the sum total</p> <p>9 of the delay, I don't know. I can't get that from</p> <p>10 this paragraph.</p> <p>11 Q Mark Exhibit No. 13.</p> <p>12</p> <p>13 (Whereupon, Letter, consisting of 2</p> <p>14 pages, was marked Exhibit No. 13 for</p> <p>15 identification.)</p> <p>16</p> <p>17 Q So in Exhibit No. 11 the medical executive</p> <p>18 committee, I guess, recommended to continue the</p> <p>19 termination of Dr. Muniz's privileges?</p> <p>20 A Yes, sir.</p> <p>21 Q Okay. Do you recognize Exhibit No. 13?</p> <p>22 A I see it here today but, again, this letter's not</p> <p>23 dated to me, it's not written to me.</p> <p>24 Q Okay. Does this appear to be the letter continuing</p> <p>25 Dr. Muniz's suspension of her clinical privileges?</p>

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<p style="text-align: right;">85</p> <p>1 A Again, I didn't write this letter.</p> <p>2 Q Okay. But I'm just asking you, I mean, in looking</p> <p>3 at the letter, does it appear to be the letter that</p> <p>4 continued the suspension of her privileges and</p> <p>5 recommended that the, or informed her that the MEC</p> <p>6 recommended that it be revoked?</p> <p>7 A Okay. I didn't receive the letter and I didn't</p> <p>8 write the letter.</p> <p>9 Q Okay.</p> <p>10 A So I can't verify if this was sent or not, but if</p> <p>11 you say so.</p> <p>12 Q Will you read where it starts, the basis of that</p> <p>13 recommendation is as follows. Will you read that.</p> <p>14 A You attended to the patient who presented to labor</p> <p>15 and delivery 30 weeks pregnant and in pain. You</p> <p>16 gave inappropriate medication, and while fetal</p> <p>17 strips identified the baby in distress, treatment</p> <p>18 was delayed for two hours. You failed to recognize</p> <p>19 an emergent situation.</p> <p>20 Q Does that paragraph mention anything about her</p> <p>21 previous cases or incidences?</p> <p>22 A This paragraph does not.</p> <p>23 Q Okay. Do you see anywhere in this letter that it</p> <p>24 mentions anything about her previous incidences?</p> <p>25 A Not to my knowledge.</p>	<p style="text-align: right;">87</p> <p>1 discussed behavioral concerns?</p> <p>2 Q Yes.</p> <p>3 A I believe there were some instances in which there</p> <p>4 were some behavioral concerns, as far as usage of</p> <p>5 foul language, certain, you know, that there was</p> <p>6 talk of that, that there was foul language used in</p> <p>7 front of the staff or towards the staff and that</p> <p>8 there was some documentation points that were</p> <p>9 considered aggressive or, you know, at meetings</p> <p>10 those were some of the things that were discussed.</p> <p>11 Again, I told you there were numerous, numerous,</p> <p>12 numerous, numerous discussions of Dr. Muniz in the</p> <p>13 previous time, there was always a case and always</p> <p>14 something talking about something that she's done.</p> <p>15 Q So you're saying the MEC did discuss in the MEC</p> <p>16 meetings behavioral issues or alleged behavioral</p> <p>17 issues of Dr. Muniz?</p> <p>18 A You're talking about before the first fair hearing</p> <p>19 is my understanding of the question?</p> <p>20 Q Before the first fair hearing.</p> <p>21 A There were some discussions, as far as I know, that</p> <p>22 people talked about foul language and things like</p> <p>23 that that she used on the floor.</p> <p>24 Q Did the MEC ever do anything about that, aside from</p> <p>25 discuss it?</p>
<p style="text-align: right;">86</p> <p>1 Q Does that paragraph indicate anything about any</p> <p>2 alleged behavioral problems with Dr. Muniz?</p> <p>3 A Not to my knowledge.</p> <p>4 Q Okay. Does any of the letter cite any behavioral</p> <p>5 or alleged behavioral issues with Dr. Muniz?</p> <p>6 A Not to my knowledge.</p> <p>7 Q Okay. Prior to this March 9th, medical executive</p> <p>8 committee meeting, had the MEC discussed any</p> <p>9 alleged behavioral issues of Dr. Muniz?</p> <p>10 A Prior to the March -- Repeat that question.</p> <p>11 Q Prior to this Exhibit No 11, March 9th meeting of</p> <p>12 the MEC, had the MEC discussed Dr. Muniz's, or any</p> <p>13 alleged behavioral issues by Dr. Muniz?</p> <p>14 A The committee discussed the previous, not this one,</p> <p>15 but the previous MEC, or the MEC at the time</p> <p>16 discussed the results of the other fair hearing,</p> <p>17 because those do come back to the MEC, in which it</p> <p>18 described behavioral issues.</p> <p>19 Q Okay. Prior to that, prior to the MEC receiving</p> <p>20 the outcome of that first peer review hearing, had</p> <p>21 the MEC discussed behavioral issues or alleged</p> <p>22 behavioral issues of Dr. Muniz?</p> <p>23 A Prior to the first fair hearing, so we're not</p> <p>24 talking about this case here, and this we're</p> <p>25 talking about the previous proceedings, had we</p>	<p style="text-align: right;">88</p> <p>1 A Not to my knowledge. I can't really remember all</p> <p>2 that was done about that.</p> <p>3 Q In discussing Dr. Muniz's termination that was</p> <p>4 eventually recommended in this Exhibit No. 11 March</p> <p>5 9th meeting, did the MEC ever discuss alleged</p> <p>6 behavioral issues?</p> <p>7 A Didn't you just ask that?</p> <p>8 Q No. I'm asking in the March 9th, you know, in the</p> <p>9 March 3rd and the March 9th meetings of the MEC you</p> <p>10 all discussed the incident that occurred on</p> <p>11 February 23rd --</p> <p>12 A Right.</p> <p>13 Q -- involving Dr. Muniz. My question to you is</p> <p>14 during those discussions, did you guys ever discuss</p> <p>15 any alleged behavioral issues of Dr. Muniz.</p> <p>16 A We discussed the case a lot. That's what I recall</p> <p>17 as being the important part of the case, of the</p> <p>18 discussion was we discussed the case a lot.</p> <p>19 Q Okay.</p> <p>20 A Yeah. We discussed the case a lot. We discussed</p> <p>21 the cases actually.</p> <p>22 Q In the second fair hearing that Dr. Muniz received,</p> <p>23 you were present for that hearing?</p> <p>24 A Say that again.</p> <p>25 Q Were you present for the, I know the answer to</p>

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<p style="text-align: right;">89</p> <p>1 this, so sorry if I phrase it wrong but were you</p> <p>2 present for the second, second peer review hearing?</p> <p>3 A Yes.</p> <p>4 Q That Dr. Muniz received?</p> <p>5 A Yes, I was present for that one.</p> <p>6 Q Okay. Were you representing the MEC at that</p> <p>7 hearing?</p> <p>8 A At that hearing, I believe because I was the</p> <p>9 chairman of the department of surgery they told me</p> <p>10 I could come to the meeting and I chose to.</p> <p>11 Q Okay. Have you ever appeared in any other peer</p> <p>12 review hearings at ARMC?</p> <p>13 A I was not the chairman of the department, so no.</p> <p>14 Q Okay. While you were the chairman of the</p> <p>15 department, were there ever any other peer review</p> <p>16 hearings?</p> <p>17 A Like what, that fair hearing thing, that I'm aware</p> <p>18 of?</p> <p>19 Q In the four years that you were on MEC, were there</p> <p>20 ever other, yeah, other fair hearings?</p> <p>21</p> <p>22 MR. DAYHUFF: Without disclosing any names of</p> <p>23 physicians that may have been subject to a</p> <p>24 fair hearing.</p> <p>25</p>	<p style="text-align: right;">91</p> <p>1 A I don't know why he was there at the fair hearing</p> <p>2 Q Okay. What was your participation in the fair</p> <p>3 hearing?</p> <p>4 A It was mainly to listen. I know that I had, was</p> <p>5 asked some questions, I was one of the people on</p> <p>6 the list that was being asked questions. It was to</p> <p>7 listen to responses and to, you know, hear what</p> <p>8 they had to say, and sometimes there was a question</p> <p>9 that I had in my mind.</p> <p>10 Q Okay. Did you provide those questions to, I guess,</p> <p>11 Dr. DiBona who was actually asking them?</p> <p>12 A Sometimes.</p> <p>13 Q Okay.</p> <p>14</p> <p>15 (Whereupon, On-Call Calendar, consisting</p> <p>16 of 1 page, was marked Exhibit No. 14 for</p> <p>17 identification.)</p> <p>18</p> <p>19 Q Do you recognize Exhibit No. 14?</p> <p>20 A No.</p> <p>21 Q Have you ever seen Exhibit No. 14 before?</p> <p>22 A No, other than today.</p> <p>23 Q Okay. How were, I guess, how were the call</p> <p>24 schedules created?</p> <p>25 A There's two call schedules here, there's a call</p>
<p style="text-align: right;">90</p> <p>1 A Again, the only thing I can answer is, is there</p> <p>2 were physicians who were discussed and physicians</p> <p>3 who no longer work here. And how they came not to</p> <p>4 work here anymore, I can't remember the details of</p> <p>5 that.</p> <p>6 Q Okay.</p> <p>7 A I just know I came to this last one and I did not</p> <p>8 attend the first one, because I was not the chair</p> <p>9 of the department of surgery. So I did not. I was</p> <p>10 an associate chair and I was not requested.</p> <p>11 Q So you're unaware if there were other fair</p> <p>12 hearings?</p> <p>13 A I'm unaware.</p> <p>14 Q During your four years?</p> <p>15 A I just couldn't answer that question without</p> <p>16 documentation.</p> <p>17 Q Okay. Then would it be fair to say that you did</p> <p>18 not attend any fair hearings?</p> <p>19 A I attended this one.</p> <p>20 Q Other than the one at issue here?</p> <p>21 A Yes.</p> <p>22 Q During your four years on the MEC?</p> <p>23 A Yes.</p> <p>24 Q Okay. Do you know why Dr. Boehner was present at</p> <p>25 the fair hearing?</p>	<p style="text-align: right;">92</p> <p>1 schedule according to your practice, and there's</p> <p>2 something called staff call.</p> <p>3 Q Okay.</p> <p>4 A I'm not involved in the assignment of staff call.</p> <p>5 I actually don't see a piece of paper like this, I</p> <p>6 get a group call schedule. On the group call</p> <p>7 schedule in bold are the initials of the person</p> <p>8 from our group that is on staff call and then</p> <p>9 underneath is someone else's name, could be the</p> <p>10 same name or it could be your name and that's who</p> <p>11 assigns staff call.</p> <p>12 Q Okay. Who creates your call list then?</p> <p>13 A My call schedule's created by Dr. Boehner.</p> <p>14 Q Okay. And do you know if he, I mean, where does he</p> <p>15 get these? I guess, he has to get a staff call</p> <p>16 schedule in order to integrate that onto yours, is</p> <p>17 that . . .</p> <p>18 A I don't know how he gets it. I assume, I mean, I</p> <p>19 don't know how he gets it to be honest with you,</p> <p>20 I've never asked. That's not one of my duties, my</p> <p>21 duties is front office staff, so . . .</p> <p>22 Q Okay. And did you say it was Boehner or Boone that</p> <p>23 you said does that?</p> <p>24 A Boehner does that part.</p> <p>25 Q Okay. But he does put on there who's on staff call</p>

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<p style="text-align: right;">93</p> <p>1 that day?</p> <p>2 A Right.</p> <p>3 Q And do you know if he creates staff call or if</p> <p>4 somebody at ARMC does that?</p> <p>5 A I don't know who creates staff call, I have no</p> <p>6 idea.</p> <p>7 Q Okay. The Exhibit No. 14, and I'll just, I know</p> <p>8 that you don't know who creates staff call and you</p> <p>9 don't see the actual staff call schedule, but I'll</p> <p>10 represent that this is the staff call schedule for</p> <p>11 February of 2010. And who's listed for February</p> <p>12 23rd?</p> <p>13 A It says Daniels, "B" Daniels.</p> <p>14 Q Okay. Is that Brian Daniels, is that correct?</p> <p>15 A Brandon.</p> <p>16 Q Brandon Daniels. Okay. And, I guess, he's got a</p> <p>17 son here also, is that the "L" Daniels on here?</p> <p>18 A No. "L" Daniels is the father and Brandon Daniels</p> <p>19 is the son.</p> <p>20 Q Okay, sorry. Do you know why Dr. Muniz was called</p> <p>21 on the 23rd for a staff call patient when Brian, or</p> <p>22 Brandon Daniels is listed as the staff call doctor?</p> <p>23 A I do not know the answer to that. What I do know</p> <p>24 is that they all used to take call together, so I</p> <p>25 don't know if that had something to do with it or</p>	<p style="text-align: right;">95</p> <p>1 upon what's going on. And this particular day, I</p> <p>2 don't know who called Dr. Muniz, I have no idea.</p> <p>3 Q Okay.</p> <p>4 A I've received call from all kinds of people, all</p> <p>5 kinds of nurses that were working that day.</p> <p>6</p> <p>7 (Whereupon, Letter, consisting of 3</p> <p>8 pages, was marked Exhibit No. 15 for</p> <p>9 identification.)</p> <p>10</p> <p>11 Q Do you recognize Exhibit No. 15?</p> <p>12 A This is a letter that I received from Conway</p> <p>13 Medical Center, yes.</p> <p>14 Q Okay. And is this a, I guess, a credentialing</p> <p>15 request or questionnaire?</p> <p>16 A Yes.</p> <p>17 Q Okay. And it says you received that on May 4th.</p> <p>18 Did you ever fill this, this document out?</p> <p>19 A I received this on May 4th?</p> <p>20 Q I'm sorry, it looks like it was sent on May 4th, my</p> <p>21 mistake. Did you ever, my question's still is the</p> <p>22 same though, did you ever fill this document out</p> <p>23 and return it?</p> <p>24 A I did not fill this document out. And the reason I</p> <p>25 did not fill the document out is because I didn't</p>
<p style="text-align: right;">94</p> <p>1 if it's a misprint, I don't know.</p> <p>2 Q Okay.</p> <p>3 A I don't know. Or if something was traded between</p> <p>4 the two of them, I don't know.</p> <p>5 Q Okay. Do you know who called Dr. Muniz on the</p> <p>6 23rd?</p> <p>7 A No.</p> <p>8 Q Who usually calls you when there's a staff call</p> <p>9 patient that needs to be seen?</p> <p>10 A The nurse does.</p> <p>11 Q The nurse does?</p> <p>12 A The nurse.</p> <p>13 Q Okay. And just the nurse at the time, I mean,</p> <p>14 there's not, it's not the same person every time I</p> <p>15 assume?</p> <p>16 A I don't know how the nursing assignment goes. I</p> <p>17 would assume that whoever is eligible for the next</p> <p>18 patient gets that patient, finds out who they</p> <p>19 belong to, and if they don't belong to somebody</p> <p>20 they call whoever's on staff call.</p> <p>21 Q Okay. So it would be the nurse that would be</p> <p>22 assigned to that patient who would call?</p> <p>23 A Right.</p> <p>24 Q Okay.</p> <p>25 A And sometimes the charge nurse calls you depending</p>	<p style="text-align: right;">96</p> <p>1 feel comfortable filling it out and so I took it up</p> <p>2 to physicians services and gave it to Terri Ergle.</p> <p>3 Q Okay. Do you know if she ever filled it out?</p> <p>4 A I do not know who filled out the form, but I didn't</p> <p>5 feel comfortable filling it out and so I brought it</p> <p>6 up there and she said that they would handle that.</p> <p>7 Q Okay. After you gave it to Terri Ergle, did you</p> <p>8 ever follow up with her?</p> <p>9 A No. Because once I put it in her hands they</p> <p>10 usually call us back and tell us if there's</p> <p>11 something more we're supposed to do with that.</p> <p>12 Q Okay, all right. How many patients does Aiken</p> <p>13 OB/GYN have?</p> <p>14 A I don't know the answer to that. A lot, a lot.</p> <p>15 Q Okay. Do you know how many roughly you have?</p> <p>16 A No.</p> <p>17 Q Any rough estimate?</p> <p>18 A A lot.</p> <p>19 Q I mean, are we talking, you know, 20 patients here,</p> <p>20 200 patients?</p> <p>21 A Way more than that.</p> <p>22 Q Okay.</p> <p>23 A On average I do between 20 and 30 deliveries a</p> <p>24 month every month.</p> <p>25 Q Okay. So you do 20 to 30 deliveries a month on</p>

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<p style="text-align: right;">97</p> <p>1 average?</p> <p>2 A Or more.</p> <p>3 Q Or more?</p> <p>4 A On average.</p> <p>5 Q How many, I guess, gynecological procedures do you</p> <p>6 do a month?</p> <p>7 A It depends on the week. It's between two,</p> <p>8 sometimes four, sometimes one, sometimes it's all</p> <p>9 obstetrical during the week, it just depends on</p> <p>10 what's posted. I'd have to get documentation on</p> <p>11 that.</p> <p>12 Q Okay.</p> <p>13 A I mean, some months it's eight, but we're scheduled</p> <p>14 out for months and months. Our block has a lot of</p> <p>15 different people on the block, so if Dr. Boone for</p> <p>16 example schedules more that month he has a lot of</p> <p>17 block, or Dr. Boehner.</p> <p>18 Q Okay.</p> <p>19 A And if I just didn't get mine in on time, then mine</p> <p>20 may be later, and I may have more in a given month</p> <p>21 so it's variable.</p> <p>22 Q Okay. And when you say 20 or 30 deliveries, you're</p> <p>23 referring to yourself individually not the practice</p> <p>24 right?</p> <p>25 A That's me, that's just me.</p>	<p style="text-align: right;">99</p> <p>1 Bryan. And so I said Dr. Bryan could you do that</p> <p>2 and he said yes.</p> <p>3 Q Okay.</p> <p>4 A That was at the summary suspension time period.</p> <p>5 After that, what agreement that have, I don't know.</p> <p>6 Q Have you picked up any of Dr. Muniz's patients,</p> <p>7 since she was summarily suspended?</p> <p>8 A I think the entire area has picked up some of the</p> <p>9 patients.</p> <p>10 Q Okay. So you have picked up some of her patients</p> <p>11 then?</p> <p>12 A I believe some came from Magnolia, but a lot came</p> <p>13 before the summary suspension too. I mean, I don't</p> <p>14 think there's any difference in the amount that</p> <p>15 came, that came into the practice before or after.</p> <p>16 Q Okay. Any idea how many?</p> <p>17 A No.</p> <p>18 Q Okay. Have you ever turned away any of Dr. Muniz's</p> <p>19 patients?</p> <p>20 A I don't take the appointments, what I do know is</p> <p>21 that gynecologically all of my patients come by</p> <p>22 referral now or if another patient has a family</p> <p>23 member and asks me to take them, I take them. But</p> <p>24 I don't take, you know, if your wife were to call</p> <p>25 for example, not that she would, but if she were to</p>
<p style="text-align: right;">98</p> <p>1 Q Okay. And then the gynecological part varies you</p> <p>2 say, or you said eight a month, something like that</p> <p>3 would be average, maybe?</p> <p>4 A Eight to ten a month, on average. I mean, like I</p> <p>5 said, some are slower, some are busier.</p> <p>6 Q Okay. Would you say that Aiken OB/GYN is a</p> <p>7 competitor of Magnolia Medical and Dr. Muniz?</p> <p>8 A No.</p> <p>9 Q And why not?</p> <p>10 A Because we don't really compete, we just take care</p> <p>11 of patients we have. We have so many that you</p> <p>12 can't even see all of them.</p> <p>13 Q Okay.</p> <p>14 A They're more than enough patients to go around in</p> <p>15 this community. They're more than enough, an</p> <p>16 abundance.</p> <p>17 Q Do you know what's being done with Dr. Muniz's</p> <p>18 patients now that she does not have hospital</p> <p>19 privileges?</p> <p>20 A No, I don't. I do, I know that when she had her</p> <p>21 summary suspension Dr. Bryan was picking up the</p> <p>22 patients.</p> <p>23 Q Okay. Did you talk with Dr. Bryan about that?</p> <p>24 A I asked Dr. Muniz who she would prefer, I felt I</p> <p>25 should do that, and she said she preferred Dr.</p>	<p style="text-align: right;">100</p> <p>1 call and she'd say Dr. Minto --</p> <p>2 Q Careful, I don't have a wife. Let's not start</p> <p>3 creating --</p> <p>4 A Okay.</p> <p>5 Q I don't want a wife.</p> <p>6 A Okay. If your wife or your mom were to call, you</p> <p>7 do have one of those, and say can I get in with Dr.</p> <p>8 Minto, they would say I'm sorry Dr. Minto's not</p> <p>9 accepting any patients right now.</p> <p>10 Q Okay.</p> <p>11 A That's what they'd say. And that's been for years.</p> <p>12 Q Have you --</p> <p>13 A We take the OB because we feel a commitment to the</p> <p>14 pregnant ladies, but the gynecological patients,</p> <p>15 no. I've been closed except for by physician</p> <p>16 referral or from the hospital.</p> <p>17 Q Have you ever informed any of Dr. Muniz's patients</p> <p>18 that she no longer has privileges?</p> <p>19 A No.</p> <p>20 Q Have you ever informed any of them that she's no</p> <p>21 longer practicing?</p> <p>22 A No.</p> <p>23 Q Have you ever informed anyone that Dr. Muniz is no</p> <p>24 longer practicing?</p> <p>25 A No.</p>

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<p style="text-align: right;">101</p> <p>1 Q Have you ever informed anyone that Dr. Muniz no 2 longer has privileges? 3 A No. I don't discuss her privileges, I don't 4 discuss if she's practicing, I don't know anything 5 about what she's doing now. 6 Q Is this Exhibit No. 16? This is the June 7th 7 letter, a single sheet. 8 9 (Whereupon, Letter, consisting of 1 page, 10 was marked Exhibit No. 16 for 11 identification.) 12 13 Q Do you recognize Exhibit No. 16? 14 A It is a letter to Dr. Muniz and it talks about a 15 hearing panel. 16 Q Okay. And you were at the hearing, so is this the 17 same panel that was present at the hearing of Dr. 18 Muniz? 19 A That's who I believe was there, yeah. 20 Q Okay. 21 A Yeah. It was Searles. Okay. 22 Q And yes, so that is the same panel? 23 A Yes. 24 Q Okay. Which of these doctors is with ARMC? Sorry, 25 that's not a very good question. Which of these</p>	<p style="text-align: right;">103</p> <p>1 Q Have you ever talked to any of them about the peer 2 review of Dr. Muniz or the hearing? 3 A No. 4 Q Have you ever talked to anyone about the peer 5 reviewing, I mean, the peer review of Dr. Muniz? 6 A No. 7 Q Okay. Have you ever written any emails regarding 8 Magnolia Medical or Dr. Muniz? 9 A No. 10 Q Not a single email has ever mentioned Dr. Muniz? 11 A I have not written any emails. 12 Q Do you not write emails? 13 A I write emails, but I have not written any that 14 concerned Dr. Muniz, other than lawyer 15 correspondence. 16 Q Okay. 17 A And most of those were receipts. 18 Q Meaning you've received them? 19 A Uh-huh. 20 Q Okay. I was just making sure you didn't mean like 21 a receipt for buying something. Okay. Have you 22 and your partners Dr. Boone, Dr. Boehner ever 23 discussed Dr. Muniz and Magnolia Medical? 24 A We discussed Dr. Muniz and Magnolia Medical Center 25 when it came time to discuss whether we'd continue</p>
<p style="text-align: right;">102</p> <p>1 doctors operates out of the ARMC? 2 A Dr. Degnan is a general surgeon, Dr. Searles is 3 actually a radiologist but is in a group, as far as 4 I know. 5 Q Okay. Meaning, meaning -- 6 A There's four core radiologists that operate 7 together. 8 Q Okay. 9 A Dr. Buchanan is a general surgeon, Dr. Degnan is 10 internal medicine, Dr. Kinsey is a pediatrician, 11 and Dr. Robinson, there's no maternal/fetal 12 medicine person here. 13 Q Okay. And I think he's out of Charleston if I 14 remember correctly, I don't know if you remember 15 that. 16 A I don't remember where he was from, there was a 17 gentleman that wasn't from this region. 18 Q So these first four, Degnan, Searles, Buchanan and 19 Kinsey, do you know them? 20 A They're on the medical staff here. I wouldn't say 21 that I'm -- I wouldn't, again, I've never been to 22 dinner with any of those people. 23 Q Okay. Have you ever talked to any of them about 24 Dr. Muniz? 25 A No.</p>	<p style="text-align: right;">104</p> <p>1 call. We decided that wasn't in our best interest. 2 Q And you never discussed her or Magnolia Medical 3 since then? 4 A No. Not really, to be honest with you. 5 Q And you've never talked to either Dr. Boone or Dr. 6 Boehner about Dr. Muniz's, I guess, alleged 7 complications or issues at ARMC? 8 A Well since she hasn't been practicing there haven't 9 been any more. I do take it back, there were some 10 discussions about money that was owed to the 11 building about Magnolia Medical Center. 12 Q Okay. 13 A In the last few months. 14 Q Bus aside from that, you haven't ever talked about 15 Dr. Muniz or Magnolia Medical? 16 A (Non-verbal Response) 17 Q I think I know your answer but I'll ask it anyway, 18 have you ever written any letters or about Dr. 19 Muniz or Magnolia Medical? 20 A No, sir. 21 22 THE WITNESS: I'm going to get some more water, if 23 you don't mind. 24 MR. DAYHUFF: You need a break, a couple minutes? 25 Are you okay?</p>

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<p style="text-align: right;">105</p> <p>1 THE WITNESS: I just need some water.</p> <p>2 MR. DICK: I might grab one also.</p> <p>3</p> <p>4 Q Okay. Aside from what, well, I'll try to ask you</p> <p>5 this way, have you seen any of Dr. Muniz's patients</p> <p>6 since the, since her precautionary suspension?</p> <p>7 A I don't see them at any higher rate now than I did</p> <p>8 before.</p> <p>9 Q Okay.</p> <p>10 A No. I mean, do I see patients that have</p> <p>11 transferred, but patients transfer all over, I've</p> <p>12 seen Bryan's patients, Daniels' patients.</p> <p>13 Q Okay.</p> <p>14 A I've seen all kinds of patients, I'm sure they've</p> <p>15 probably seen some of mine. I mean, patients go</p> <p>16 wherever they want to.</p> <p>17 Q Have any of Dr. Muniz's patients presented to the</p> <p>18 hospital and where you have seen them?</p> <p>19 A There was one patient that came in that was Dr.</p> <p>20 Muniz's and I asked the emergency department to</p> <p>21 call Dr. Bryan and Dr. Bryan took care of that</p> <p>22 patient.</p> <p>23 Q Okay. And is that part of the agreement that you</p> <p>24 talked about earlier that you'd asked Dr. Bryan to,</p> <p>25 or Dr. Muniz told you to ask Dr. Bryan to cover all</p>	<p style="text-align: right;">107</p> <p>1 Q You ready for the second attorney of the day? I'm</p> <p>2 your attorney though, so it should be better. All</p> <p>3 right. Just a few questions.</p> <p>4</p> <p>5 MR. DICK: He's just going to throw you softballs,</p> <p>6 don't worry about it.</p> <p>7</p> <p>8 Q I'm going to start by asking you about some of the</p> <p>9 assertions, allegations, things that have been said</p> <p>10 by Dr. Muniz in documents we've received --</p> <p>11 A Okay.</p> <p>12 Q -- in this suit, okay? Let's see, where do I want</p> <p>13 to start. All right. Dr. Minto have you ever made</p> <p>14 false statements about Dr. Muniz and her practice?</p> <p>15 A No.</p> <p>16 Q Have you ever treated Dr. Muniz's patients poorly?</p> <p>17 A No.</p> <p>18 Q When you undertook to review the catastrophic</p> <p>19 patient case in 2010, the one about which you</p> <p>20 signed the precautionary suspension, were you, when</p> <p>21 you decided that revocation or the precautionary</p> <p>22 suspension was merited, were you motivated by</p> <p>23 personal and economic self interests?</p> <p>24 A No.</p> <p>25 Q What motivated you, when you signed that letter for</p>
<p style="text-align: right;">106</p> <p>1 her patients, I guess, that presented to the --</p> <p>2 A The agreement was for the patients that were</p> <p>3 immediately in the hospital.</p> <p>4 Q Okay.</p> <p>5 A But I do know that, that she likes him and I would,</p> <p>6 I wanted to respect that. And so he was here and,</p> <p>7 you know, I asked them if they'd call him, and he</p> <p>8 took care of it. They didn't call me back about</p> <p>9 the patient, so I'm assuming that he took the</p> <p>10 patient.</p> <p>11 Q Are you aware of what Dr. Muniz is currently doing</p> <p>12 in her practice?</p> <p>13 A No.</p> <p>14 Q Okay. I'm assuming you haven't had any discussions</p> <p>15 with anyone about her current practice?</p> <p>16 A I don't know what her current practice is, what it</p> <p>17 involves, where she goes, I don't know.</p> <p>18 Q Okay. I think that's all I have, I might have a</p> <p>19 couple more after Mr. Dayhuff.</p> <p>20</p> <p>21 CROSS EXAMINATION</p> <p>22 BY MR. DAYHUFF:</p> <p>23 Q Okay. Let me ask you a few questions. You need a</p> <p>24 little break?</p> <p>25 A I'm okay.</p>	<p style="text-align: right;">108</p> <p>1 precautionary suspension?</p> <p>2 A Patient care. Patient, surely patient care. I was</p> <p>3 aware that she had some issues before. She was on</p> <p>4 100 percent review and that an infant had passed</p> <p>5 away. And there were some, you know, I just, I was</p> <p>6 concerned, I knew what could happen at this</p> <p>7 institution for that type of patient.</p> <p>8 Q You described your role in the 2009 peer review and</p> <p>9 the 2010 peer review. Your 2009 peer review role,</p> <p>10 if I understood your testimony, was restricted to</p> <p>11 sitting on the MEC and hearing about Dr. Muniz's</p> <p>12 cases and hearing about recommendations that were</p> <p>13 made, is that correct?</p> <p>14 A Right.</p> <p>15 Q All right. You did, though, as you sat on the MEC,</p> <p>16 observe the meetings, observe the communications</p> <p>17 that the physician peers were having about Dr.</p> <p>18 Muniz, is that correct?</p> <p>19 A Yes.</p> <p>20 Q All right. In any of your observations, did you</p> <p>21 see any evidence that anyone on the MEC was</p> <p>22 motivated by anything other than concern for</p> <p>23 patients and quality of care?</p> <p>24 A It was always concern for quality of care, it was</p> <p>25 always concern about patients, and at times there</p>

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<p style="text-align: right;">109</p> <p>1 was concern about Dr. Muniz. To be honest with 2 you, nobody wants to be on this and, I mean, and 3 nobody wants to be on these things. 4 Q Okay. Did, in the 2009 peer review, and, again, 5 you were sitting on the MEC, did anyone from the 6 hospital staff, CEO, other members of the staff, 7 attempt to manipulate or influence the physician 8 peer review of Dr. Muniz? 9 A No. 10 Q Did anyone conspire to harm Dr. Muniz, as part of 11 the 2009 peer review? 12 A No. 13 Q All right. Let's move to 2010 peer review. Did 14 you personally, were you influenced by anybody on 15 the administration, hospital employees with respect 16 to the decisions and the conduct you undertook in 17 the 2010 peer review? 18 A No. 19 Q In what you observed at the hearing, are you 20 concerned that anyone was motivated by improper 21 things, economics, ill will, anything like that? 22 Do you have any concerns, after what you observed 23 of the 2010 peer review? 24 A No. 25 Q All right. I want to take one more look at the</p>	<p style="text-align: right;">111</p> <p>1 reflect this file has been reviewed by the OB/GYN 2 member of the peer review committee and a second 3 review was done by the chairman of surgery. You 4 were obviously the chairman of surgery. 5 A Yes. 6 Q We think the OB/GYN member of the peer review 7 committee was? 8 A Cindy Besson. 9 Q Cindy Besson. Okay, all right. The very bottom of 10 this page it says motion was made and seconded to 11 terminate Dr. Muniz's medical staff appointment and 12 privileges and it carried with a unanimous vote. 13 What I understood when you testified about that, 14 you described that as a continuation of her 15 precautionary suspension, is that what you 16 understood was the action coming from the March 3 17 2010? 18 A That was my understanding. 19 Q Okay, all right. Despite the fact that this says 20 termination, was your understanding that you were 21 merely continuing the precautionary suspension that 22 you, the chief of staff, and Carlos Milanes had put 23 in place? 24 A That's what I understood. That's what I 25 understood.</p>
<p style="text-align: right;">110</p> <p>1 minutes. We're on Exhibit No. 10 and Exhibit No. 2 11, these are the MEC minutes from 2010. Now, this 3 Exhibit No. 10 reflects the March 3, 2010 special 4 called meeting at the MEC, isn't that correct? 5 A Yes, sir. 6 Q All right. And that meeting was held after you 7 conducted your chart review? 8 A Right. 9 Q Of the catastrophic case, is that correct? 10 A Yes. 11 Q You also mentioned that there was another review 12 before yours -- 13 A Yes. 14 Q -- of the same case, who conducted that review? 15 A It was Dr. Besson, Dr. Cindy Besson. 16 Q All right. Dr. Besson was, was she on the medical 17 peer review committee? 18 A I believe she was on peer review. 19 Q Okay. 20 A I believe Dr. Robinson brought her. 21 Q Okay. 22 A Dr. Robinson is the chair of that and he was given 23 the report and then he had her as the member of the 24 peer review, review that. 25 Q I see. The minutes, and I'm reading from them,</p>	<p style="text-align: right;">112</p> <p>1 Q All right. If we go forward to the March 9, 2010 2 meeting, Dr. Muniz is present. 3 A Right. 4 Q So she gets to say her peace in this case, right? 5 A Right. 6 Q And there's more discussion. 7 A Right. 8 Q Then we see a motion to terminate but you're going 9 to hold your final recommendation until receipt of 10 the outside reviews. 11 A That's correct. 12 Q Okay, all right. And only if the outside reviews 13 come back positively for Dr. Muniz would you need 14 to meet to discuss again, Is that your 15 understanding of what this means? 16 A Yes. Only if they were positive, meaning that they 17 felt as though what she did was okay. If they felt 18 as though there was a delay in treatment, which it 19 says there, then the termination would go forward. 20 Q All right. So if the outside reviews confirmed the 21 internal reviews, your recommendation then would be 22 effective to terminate her privileges, at that 23 point. 24 A Yes. I remember my concern was the delay. You 25 know, being a person who practices here, I know</p>

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<p style="text-align: right;">113</p> <p>1 that two hours seemed to be a lot longer than it</p> <p>2 needs to take to get the patient to the OR. That</p> <p>3 was my main, my huge concern, was the delay.</p> <p>4 Q Okay. And what I'm trying to make sure I</p> <p>5 understand is when the actual recommendation of the</p> <p>6 MEC was made to terminate. And it looked --</p> <p>7 A Yes. It was here after we talked to her.</p> <p>8 Q All right. Here meaning March 9th?</p> <p>9 A Yes.</p> <p>10 Q Okay, all right.</p> <p>11 A She came and talked to us.</p> <p>12 Q Got you. You waited until she talked to you, and</p> <p>13 then on March 9th that was the recommendation,</p> <p>14 unless positive reviews came back from the external</p> <p>15 reviewers?</p> <p>16 A Right.</p> <p>17 Q All right. And I think that corresponds with this</p> <p>18 letter, let's look at Exhibit No. 13, March 16,</p> <p>19 2010 letter. This is the Notice of Adverse</p> <p>20 Recommendation that Mr. Dick showed you.</p> <p>21 A Okay.</p> <p>22 Q And it looks like it reflects on March 9, 2010 you</p> <p>23 elected to continue the suspension and the</p> <p>24 committee recommended on that day that the clinical</p> <p>25 privileges would be revoked.</p>	<p style="text-align: right;">115</p> <p>1 A I --</p> <p>2 Q I tell you what, let me withdraw that question, let</p> <p>3 me just show you this. Let's make this -- well,</p> <p>4 let's show it to you first.</p> <p>5 A All these letters in front of me.</p> <p>6 Q Yeah. I tried to avoid one more letter. All</p> <p>7 right. Take a look at this and we may or may not</p> <p>8 make it an exhibit. This is not addressed to you,</p> <p>9 but take a look at it there.</p> <p>10</p> <p>11 MR. DAYHUFF: David, I'll give you a copy.</p> <p>12</p> <p>13 A Okay. There's a letter, I'm reading this bottom</p> <p>14 paragraph, the recommendation of the medical</p> <p>15 executive committee is further based on your</p> <p>16 history, including prior peer review proceeding in</p> <p>17 which the board of governors required that you</p> <p>18 submit to an evaluation and treatment if needed.</p> <p>19 It describes that she had a prior history and we</p> <p>20 did talk about that prior history.</p> <p>21 Q All right. And if you look further on page two,</p> <p>22 three, let's look at page three, description of</p> <p>23 grounds/charges.</p> <p>24 A Clinical competence in the treatment of patients by</p> <p>25 the chart numbers, and it listed them, and your</p>
<p style="text-align: right;">114</p> <p>1 A Right.</p> <p>2 Q Does that comport with your understanding of what</p> <p>3 happened at the March 9th meeting?</p> <p>4 A That's my understanding of what happened at the</p> <p>5 meeting.</p> <p>6 Q All right. Now Mr. Dick made a point to mention or</p> <p>7 to have you read the description of the basis of</p> <p>8 the notice of adverse recommendation.</p> <p>9 A Right.</p> <p>10 Q He had you read this basis, you attended to the</p> <p>11 patient, then he asked you a question about whether</p> <p>12 or not anything about the prior cases appeared</p> <p>13 here, do you recall that?</p> <p>14 A Yes.</p> <p>15 Q And he asked you if anything about her behavior</p> <p>16 appeared here, do you recall that?</p> <p>17 A Right.</p> <p>18 Q All right. And you said no. Do you know whether</p> <p>19 or not a subsequent notice went out from Mr.</p> <p>20 Milanes that referred to, in addition to this, her</p> <p>21 prior history and her behavioral issues?</p> <p>22</p> <p>23 MR. DICK: Object to form.</p> <p>24</p> <p>25 Q Do you know?</p>	<p style="text-align: right;">116</p> <p>1 professional judgment.</p> <p>2 Q It lists one, two, three, four, five, six chart</p> <p>3 numbers, including the last one which was 227589?</p> <p>4 A Right.</p> <p>5 Q Do you recognize 227589 as the catastrophic case?</p> <p>6 A That's the one that's listed there.</p> <p>7 Q All right. And do you, you probably don't</p> <p>8 recognize but do you believe that the other five</p> <p>9 cases are the original five cases from 2009?</p> <p>10 A I believe that those were the five cases.</p> <p>11 Q All right. Well, let's make that an exhibit,</p> <p>12 exhibit whatever number we're on.</p> <p>13</p> <p>14 MR. DICK: Seventeen, I believe.</p> <p>15</p> <p>16 Q Oh, I guess it could be my first exhibit, that's</p> <p>17 fine.</p> <p>18</p> <p>19 (Whereupon, Letter, consisting of 5</p> <p>20 pages, was marked Defendant's Exhibit No.</p> <p>21 1 for identification.)</p> <p>22</p> <p>23 Q Dr. Minto, do you have any idea where -- Well, I</p> <p>24 guess you received one request for information</p> <p>25 about Dr. Muniz's practice from Conway that we</p>

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<p style="text-align: right;">117</p> <p>1 looked at already.</p> <p>2 A Right.</p> <p>3 Q Are you aware of anywhere else that she may or may</p> <p>4 not have applied for privileges?</p> <p>5 A No.</p> <p>6 Q Okay.</p> <p>7 A Huh-uh. The newspaper, the newspaper said that she</p> <p>8 might go to Bamberg, I think, it's Bamberg.</p> <p>9 Q Okay.</p> <p>10 A Bamberg.</p> <p>11 Q Other than that, were you aware of any other</p> <p>12 hospitals where she may or may not have applied for</p> <p>13 privileges?</p> <p>14 A No.</p> <p>15</p> <p>16 MR. DICK: Let's go off the record. Let's take a</p> <p>17 break.</p> <p>18</p> <p>19 (Off the Record)</p> <p>20</p> <p>21 Q That's about it, I'm done.</p> <p>22</p> <p>23 MR. DAYHUFF: Any further follow up?</p> <p>24 MR. DICK: Yeah. A couple questions.</p> <p>25</p>	<p style="text-align: right;">119</p> <p>1 Q But you don't remember any further discussion about</p> <p>2 the incident itself?</p> <p>3 A No. Not that I --</p> <p>4 Q Okay. Do you know if the, after the March 9th</p> <p>5 meeting the MEC ever met to discuss the outside</p> <p>6 reviews that were received?</p> <p>7 A I don't know the answer to that. I know there was</p> <p>8 discussion about the outside reviews, but I'm not</p> <p>9 sure if, I'm not sure, I'm not sure. I know there</p> <p>10 was discussion about the outside reviews and what</p> <p>11 they came back at. But I'm not sure if they'd</p> <p>12 already terminated or if it was just an FYI or, I</p> <p>13 don't know.</p> <p>14 Q On the March 9th meeting, Exhibit No. 11, did you</p> <p>15 vote on that recommendation to terminate Dr.</p> <p>16 Muniz's privileges?</p> <p>17 A What I remember is that it wouldn't have mattered</p> <p>18 if I voted or not.</p> <p>19 Q Okay. But the question is did you vote?</p> <p>20 A I can't remember if I voted. It says unanimous</p> <p>21 though.</p> <p>22 Q Okay.</p> <p>23 Q But they didn't count votes like they did on that</p> <p>24 previous one. The previous one there was six yes</p> <p>25 and a one no.</p>
<p style="text-align: right;">118</p> <p>1 RE-DIRECT EXAMINATION</p> <p>2 BY MR. DICK:</p> <p>3 Q Okay. Looking at Exhibit No. 11, the special</p> <p>4 meeting on March 9th, after that meeting did the</p> <p>5 MEC ever meet again to discuss this issue?</p> <p>6 A I'd need minutes, I would really need minutes,</p> <p>7 because it's been so many meetings and so many</p> <p>8 days.</p> <p>9 Q Okay. Unless it was -- if you had met after this</p> <p>10 date and discussed Dr. Muniz, would it be in the</p> <p>11 minutes then?</p> <p>12 A I don't know the answer to that. I don't do the</p> <p>13 minutes, so I, you know, I would need something to</p> <p>14 jog my memory is what I'm telling you. I would</p> <p>15 need something, sometimes what jogs it is seeing</p> <p>16 something else on the page.</p> <p>17 Q Okay. Then do you remember if the MEC met after</p> <p>18 this March 9th meeting to discuss this issue, this</p> <p>19 incident?</p> <p>20 A Off the top of my head, I cannot recall. I know</p> <p>21 that people on the committee asked if there, what</p> <p>22 her response was, I do remember that and them</p> <p>23 saying she requested a fair hearing.</p> <p>24 Q Okay.</p> <p>25 A I do remember that.</p>	<p style="text-align: right;">120</p> <p>1 Q Okay. And, again, I mean, this is a pretty</p> <p>2 critical point because you're voting to terminate a</p> <p>3 Doctors privileges, so I guess my question --</p> <p>4 A What I remember from that meeting, I'm telling you</p> <p>5 is the committee was very, very concerned about</p> <p>6 patient safety and care to the point that one vote</p> <p>7 would not have mattered either direction. It was</p> <p>8 almost every, everybody at the table as far as my</p> <p>9 eye could see, voted in the same regards.</p> <p>10 Q Okay. Was your recommendation, at that time during</p> <p>11 discussions, that she be terminated?</p> <p>12 A Based upon her history and this current case, that</p> <p>13 would have been my recommendation, yes.</p> <p>14 Q Okay. Exhibit No. 10, the meeting on March 3rd,</p> <p>15 did you vote in that meeting to continue and/or</p> <p>16 terminate her privileges?</p> <p>17 A Again, it was unanimous.</p> <p>18</p> <p>19 MR. DAYHUFF: Object to the form of the question,</p> <p>20 mischaracterizes prior testimony. You can</p> <p>21 answer, unless you want to rephrase.</p> <p>22</p> <p>23 Q Yeah. I'll just rephrase it. I'll just ask it,</p> <p>24 the final recommendation that was, I guess, issued</p> <p>25 from this meeting, did you vote on that</p>

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<p style="text-align: right;">121</p> <p>1 recommendation?</p> <p>2 A Again, the minutes say unanimous vote. And, again,</p> <p>3 what I remember from that meeting is as far as the</p> <p>4 eyes could see it was all in the same direction.</p> <p>5 It wasn't any dissenting votes.</p> <p>6 Q Okay.</p> <p>7 A So it wouldn't have mattered either way.</p> <p>8 Q So do you remember whether or not you voted?</p> <p>9 A The reason I remember in the first one is because</p> <p>10 there was discussion, I audibly said to myself and</p> <p>11 to others, they said Minto you're not voting and I</p> <p>12 said the reason why I wasn't voting. In this one</p> <p>13 there wasn't that discussion, so I can't remember</p> <p>14 that. But I would almost say that I voted along</p> <p>15 with everyone else.</p> <p>16 Q Okay. During discussions on this March 3rd, during</p> <p>17 this March 3rd meeting, did you, what was your</p> <p>18 recommendation in terms on Dr. Muniz's privileges,</p> <p>19 status of her privileges?</p> <p>20 A In this meeting my thoughts were that members of</p> <p>21 the committee and I were concerned about the</p> <p>22 patient safety and care. There were discussions</p> <p>23 all around as to what to do and there was the</p> <p>24 motion to terminate and we voted on that motion.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">123</p> <p>1 the bylaws. That's usually what they're, that's</p> <p>2 what their part in it is.</p> <p>3 Q Okay. So they don't participate in the discussions</p> <p>4 then?</p> <p>5 A Not that I can recall, no.</p> <p>6 Q Have they ever, in any of the MEC meetings,</p> <p>7 participated in the discussions?</p> <p>8 A It's mainly presentation of whatever they have to</p> <p>9 present, this is what the bylaws say, you know.</p> <p>10 Sometimes they have things to talk about that have</p> <p>11 nothing to do with the case you're talking about,</p> <p>12 sometimes it just has to do with something going on</p> <p>13 in the hospital it has nothing to do with any</p> <p>14 physician at all. It could be some new forms or</p> <p>15 some new things by JCAHO. I mean, that's usually</p> <p>16 their purposes at these meetings.</p> <p>17 Q Okay. Have you ever had a professional liability</p> <p>18 or malpractice claim filed against you?</p> <p>19 A No.</p> <p>20 Q Never?</p> <p>21 A Never.</p> <p>22 Q Have you ever been the subject to peer review?</p> <p>23</p> <p>24 MR. DAYHUFF: Objection. I mean, we can't inquire</p> <p>25 into her peer review, much less anyone else.</p>
<p style="text-align: right;">122</p> <p>1 A Who made the original motion, I couldn't tell you</p> <p>2 who made it.</p> <p>3</p> <p>4 MR. DAYHUFF: Was that question addressed to the</p> <p>5 March 3rd or the March 9th?</p> <p>6</p> <p>7 A The March 3rd.</p> <p>8 Q This March 3rd was to continue the suspension. And</p> <p>9 whether or not, I don't know who made the motion to</p> <p>10 continue the suspension, I voted along or I believe</p> <p>11 I voted along because it says unanimous.</p> <p>12 Q Okay.</p> <p>13 A March 9th it was if the reviews come back, this is</p> <p>14 the way that we were going to proceed, that was the</p> <p>15 vote on the table.</p> <p>16 Q Okay. During the March 3rd and March 9th meetings</p> <p>17 did, and they've listed, on March 3rd they've got</p> <p>18 Scott Ansede, Carlos Milanes, Sharon Hagan, and</p> <p>19 Terri Ergle listed as, I guess, the non-medical</p> <p>20 personnel that are there. Did they participate in</p> <p>21 the discussions during these meetings?</p> <p>22 A They don't participate in any discussions at all.</p> <p>23 I know that they're questions that are asked of</p> <p>24 what the options are, what do the bylaws say, Terri</p> <p>25 will pull out the bylaws and everybody will read</p>	<p style="text-align: right;">124</p> <p>1 I mean, haven't we agreed to set that aside?</p> <p>2 MR. DICK: Not really. But that's fine. I'll</p> <p>3 reserve my right to come back and ask it later</p> <p>4 if we so choose or if we get a judge to rule</p> <p>5 on it.</p> <p>6 MR. DAYHUFF: Okay.</p> <p>7</p> <p>8 A I don't know what that --</p> <p>9 Q You don't have to answer that question. That's all</p> <p>10 I've got.</p> <p>11 -----</p> <p>12 (Whereupon, at 4:14 p.m., the deposition</p> <p>13 in the above-entitled matter was</p> <p>14 adjourned.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 The witness reserved his/her right to review
 2 the deposition transcript. This transcript has
 3 been made available to the witness with the
 4 appropriate instructions to complete the review and
 5 submit a signed errata sheet within the thirty (30)
 6 days provided for by the SC Rules of Civil
 7 Procedure.

8
 9 Any corrections and/or changes requested and
 10 submitted by the witness will be sealed under
 11 separate cover and forwarded to the taking party
 12 with instructions to place with this original
 13 sealed transcript.

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State of South Carolina)
) CERTIFICATE
 County of Lexington)
 Be it known that the foregoing Deposition of
 OLETHA R. MINTO, MD was taken by Thea K. Salmonson;

That I was then and there a notary public in
 and for the State of South Carolina-at-Large;
 That by virtue thereof I was duly authorized
 to administer an oath;

That the witness was by me first duly sworn to
 testify the truth, the whole truth, and nothing but the
 truth, concerning the matter in controversy aforesaid;

The foregoing transcript represents a true,
 accurate and complete transcription of the testimony so
 given at the time and place aforesaid to the best of my
 skill and ability;

That I am not related to nor an employee of
 any of the parties hereto, nor a relative or employee of
 any attorney or counsel employed by the parties hereto,
 nor interested in the outcome of this action.

Witness my hand and seal 21 DAY OF JULY, 2011
 *Thea K. Salmonson*
 Thea K. Salmonson

Notary Public for South Carolina
 My Commission Expires: March 15, 2020

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